

USDA Animal and Plant Health Inspection Service  
Freedom of Information Act / Privacy Act Office  
**Chief FOIA Officer Report to the Department of Justice**

**I. Steps Taken to Apply the Presumption of Openness**

**1. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.**

**a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.**

APHIS Associate Administrator Kevin Shea distributed the President's FOIA Memorandum and the Attorney General's FOIA Guidelines to every APHIS program Deputy Administrator. Mr. Shea affirmed his commitment to openness and outlined specific steps that APHIS took to increase the amount of information posted to the FOIA reading room. The memorandum and guidelines are posted on the APHIS website at [www.aphis.usda.gov/footer\\_items/foia.shtml](http://www.aphis.usda.gov/footer_items/foia.shtml).

The memorandum and guidelines was also included in our APHIS FOIA Work Guide and distributed to the FOIA staff and the FOIA liaisons.

**b. What training has been attended and/or conducted on the new FOIA Guidelines?**

Employees took several introduction courses with the Department of Justice Office of Legal Education and the USDA Graduate School - FOIA for Attorneys and Access Professionals, Introduction to FOIA, and Advance FOIA training.

APHIS staff conducted internal training for FOIA liaisons, individual FOIA programs and APHIS stakeholders. Last year, our office invited all staff members of the APHIS Raleigh Regional Offices to attend internal FOIA training. The training consisted of FOIA processes, time deadlines, fees, and E-FOIA and openness implementation. Over 60 APHIS employees attended the training.

APHIS staff provided EFOIA and FOIA processes training to the Office of Veterinary Services and their business stakeholders. This training was specifically designed to address FOIA basics, E-FOIA and transparency, and how to proactively post and protect confidential business information. The training was also designed to not only internally train APHIS employees but to familiarize APHIS stakeholders with the submitter notice process and the types of information that APHIS posts to its E-FOIA reading room. The training was attended by 30 APHIS employees and 50 stakeholders.

**c. How has your agency created or modified your internal guidance to reflect the presumption of openness?**

Our internal APHIS FOIA Work Guide was updated to include the President’s FOIA Memorandum and Attorney General guidelines.

APHIS has not created any specific internal guidance.

**d. To what extent has your agency made discretionary releases of otherwise exempt information**

<b>Fiscal Year</b>	<b>Exemption 2</b>	<b>Exemption 5</b>
2009	21	71
2010	47	37

APHIS specifically targeted Exemption 5, in our efforts to make discretionary releases. When reviewing records, the FOIA staff consults with APHIS programs and has them identify specific harm if the information were released. APHIS discretionarily released predecisional discussions, recommendations, drafts, and policy recommendations with a resulting decrease in the use of Exemption 5.

Our office did have a small increase in the use of Exemption 2. We appropriately increased our use of Exemption with records relating to the Office of Animal Care animal research facilities. Additional, we determined certain types of records related to animal research facilities could not be discretionarily released and would cause a circumvention of the law. This analysis was provided by the Department of Justice.

**e. What exemptions would have covered the information that was released as a matter of discretion?**

Exemptions 2 and 5.

**f. How does your agency review records to determine whether discretionary releases are possible?**

From the first, APHIS implemented the universal foreseeable harm standard originally defined by Attorney General Reno’s FOIA Memorandum of October 4, 1993, and re-implemented by Attorney General Holder. APHIS centrally processes all of its’ FOIA requests and all FOIA personnel are directed to review any documents for discretionary release. Specifically, in each and every instance, our office in conjunction with the APHIS program offices uses this standard to determine the appropriate withholdings under FOIA Exemptions 2, 5 and 7(a)(d) and (e).

**g. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.**

No additional information.

**2. Report the extent to which the numbers of requests where records have been released in full and the numbers of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.**

<b>Fiscal Year</b>	<b>Requests Processed</b>	<b>Full Grants</b>	<b>Partial grants</b>
2009	1656	138 (8% of the req. processed)	1099 (66% of the req. processed)
2010	909	127 (14% of the req. processed)	470 (52% of the req. processed)

**II. Steps Taken to Ensure that Your Agency has an Effective System In Place for Responding to Requests**

**a. Do FOIA professionals within your agency have sufficient IT support?**

The APHIS FOIA Office is supported by a dedicated IT staff person employed by Legislative and Public Affairs (LPA). Further, the APHIS Technical Assistance Center (ATAC) provides computer and network support to the FOIA staff. The FOIA Office utilizes ATAC to answer troubleshooting calls, and resolve software, server, and email issues. Additionally, the FOIA office currently uses REDAX and ADOBE software to electronically redact documents -- Our internal IT staffer provides direct support for our redaction software.

**b. Describe how your agency’s FOIA professionals interact with your Open Government Team.**

N/A – APHIS FOIA staff did not directly interact with the Open Government Team. However, the Open.Gov requirements were integrated into the performance plan of the Deputy Administrator for Legislative and Public Affairs as part of her FOIA goals. APHIS met their goal to post the BRS applications to the genetically engineered permits, notifications, and petitions available at [www.data.gov](http://www.data.gov).

**c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.**

For the past two fiscal years, the APHIS FOIA offices has been fully staffed and funded. Our office is comprised of a FOIA Director, 2 FOIA Assistant Directors, a FOIA Project Manager, 3 FOIA Assistants, and 13 FOIA analysts. Each analyst maintains a caseload of no more than 20

cases and because of reduced caseloads, our FOIA office is able to devote adequate resources to E-FOIA initiatives and proactively posting documents.

**d. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.**

At the beginning of each fiscal year, the FOIA Office implements operational plans that include aggressive FOIA initiatives, measurable goals, and benchmarks. The FOIA operational plan is also included as part of the overall APHIS program goals.

Over the years, APHIS has had a tremendous backlog of requests, with beginning backlogs of 901 requests in 2008 and 881 requests in 2009. With the last 2 years, APHIS has taken a number of strategic and proactive actions, aimed at reducing the number of requests in the backlog, reducing the number of incoming FOIA requests, and increasing the FOIA staff's overall productivity. Things like:

- Organized strike teams with additional program staff to assist with processing
- Hired contractors to assist with FOIA processing
- Worked with programs to reduce response times
- Utilized an Access database to accurately keep track of requests
- Posted more information and records on the APHIS website

**III. Steps Taken To Increase Proactive Disclosures**

**a. Has your agency added new material to your agency website since last year?**

- Yes.

**b. What types of records have been posted?**

- APHIS continues to work with the Animal Care office to review and post Inspection Reports to the EFOIA Reading Room. APHIS created a searchable database that allows the public access to over 50,000 inspection reports covering the last three years. Once the AC inspection reports were posted, the number of incoming FOIA requests were reduced by 35%. The inspection reports are located at [http://www.aphis.usda.gov/animal\\_welfare](http://www.aphis.usda.gov/animal_welfare).
- APHIS reviewed and posted over 1,500 Annual Reports for Research Facilities for 2009.
- APHIS linked to the BRS applications for genetically engineered permits, notifications, and petitions available at [www.data.gov](http://www.data.gov).
- APHIS LPA FOIA Office posted over 140 FY10 FOIA responses, including a copy of the request, the FOIA response, and agency records. Persons may not search our previous responses to quickly obtain records.

**c. Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.**

- See Section III(b).

**d. What system do you have in place to routinely identify records that are appropriate for posting?**

Our 2010 FOIA Operational Plan identified several steps to identify appropriate records for proactive posting. The APHIS FOIA evaluates the requests of our media, congressional, and FOIA stakeholders to determine the types of information being requested, and specifically targets those types of information to be posted. Additionally, the FOIA Office is given a weekly list of upcoming press releases and our office works with the programs to identify and review records that can be posted along with our APHIS press releases.

**e. How do you utilize social media in disseminating information?**

APHIS launched accounts on several social media sites in 2010 and garnered 4,738 views of its YouTube videos, 1,006 Twitter followers, 25,984 Facebook fans and members, and 1,195 views of its Flickr photo sets. Social media like these are helping APHIS reach new audiences, increasing public awareness and understanding of its mission and activities to protect animal and plant health. As a primary example, APHIS Twitter messages are being forwarded by the Agency's 1,000+ followers, amplifying the messages to reach an average of 11,000 additional people each month. Post links to announcements about press releases, blog postings, YouTube videos, outreach campaigns used to educate our stakeholders and the public on APHIS regulations.

**f. Describe any other steps taken to increase proactive disclosures at your agency.**

No additional information.

**IV. Steps Taken To Greater Utilize Technology**

**1. Electronic receipt of FOIA requests:**

**a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically? N/A.**

**b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report? N/A.**

**c. What methods does your agency use to receive requests electronically?**

APHIS FOIA office has the capability to receive FOIA requests electronically. Listed on the front of our APHIS FOIA page is a link entitled, "How to Make a FOIA Request." The link connects directly to information that shows a requester how to submit a request to our [FOIA.Officer@aphis.usda.gov](mailto:FOIA.Officer@aphis.usda.gov) dedicated e-mail and/or to an online Web Request Form. APHIS also receives requests via fax and regular mail.

**2. Electronic tracking of FOIA request:**

**a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?**

APHIS continues to have the capability to track FOIA requests.

**b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?**

APHIS continues to track 100% of all of its FOIA requests.

**c. What methods does your agency use to track requests electronically?**

APHIS currently uses Microsoft Access Database where incoming FOIA requests are logged and tracked. Further, our office has purchased FOIAXpress --a comprehensive FOIA tracking software.

**3. Electronic processing of FOIA requests:**

**a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?**

APHIS has the capability to process FOIA requests electronically.

**b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?**

APHIS continues to electronically redact 100% of all of its FOIA requests.

**c. What methods does your agency use to process requests electronically?**

Currently, APHIS scans in paper records to be processed by using the Redax redaction tool with the Adobe plug in.

**4. Electronic preparation of your annual FOIA Report:**

**a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system?**

APHIS uses Microsoft Access, which is a generic data-processing system.

**b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.**

APHIS has acquired FOIA Express which will allow the FOIA office to track incoming FOIA requests, process requests electronically and generate FOIA reports with minimum effort.

**V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests**

**1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year. Second, report whether your agency closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them your agency did close.**

**2009**

**Backlogs of FOIA Requests and Administrative Appeals**

<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
387	72

**2010**

**Backlogs of FOIA Requests and Administrative Appeals**

<b>Number of Backlogged Requests as of End of Fiscal Year</b>	<b>Number of Backlogged Appeals as of End of Fiscal Year</b>
219	57

In FY2010, our office closed all 10 of the oldest pending FY2009 requests and 5 of the oldest FY2009 appeals.

**2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred. In doing so, answer the following questions and then includes any other additional explanation: N/A.**

- a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?
- b. Is the backlog increase caused by a loss of staff?
- c. Is the backlog increase caused by an increase in the complexity of the requests received?
- d. What other causes, if any, contributed to the increase in backlog?

**3. Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so answer the following questions and then also include any other steps being taken to improve timeliness.**

- a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?**

The FOIA Office completes a yearly FOIA Operational Plan. The plan lists our goals, realistic measures, actions items, due date, the status and accomplishments. The FOIA Director does a quarterly update to APHIS leadership on the status and accomplishments of the Operational Plan.

- b. Has your agency increased its FOIA staffing? N/A**

- c. Has your agency made IT improvements to increase timeliness?**

The FOIA Office is implementing FOIAXpress and anticipates the installation and accreditation to be complete by the end of FY11.

- d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests? N/A**

### **Spotlight on Success**

#### **Key Successes**

In FY 2009 and 2010, APHIS proactively posted on the Internet: AC inspection reports, AC annual reports, lists of all AC licensees, Horse Industry Organization Suspension Lists and Audit Reports, Investigative and Enforcement Services enforcement actions, and copies of all redacted FOIA responses. These postings have resulted in a significant reduction in the number of incoming FOIA requests – 525 fewer requests between FY 2009 and FY 2010, or approximately a 42% reduction in the number of requests received.

In FY 2010 – through a combination of efforts, APHIS reduced the Agency's overall backlog of FOIA requests by almost 43% - unprecedented in more than a 10-year backlog and far exceeding our 25% goal for the year.

Our goal for 2011 is to reduce the total number of FOIA cases in the backlog at the start of Fiscal Year 2010 by 40% - so, from 222 cases to 134 cases, as well as reorganize the Agency's FOIA reading room website and continue to work with programs to increase the data and amount of information posted to that site. As of December 2010, the backlog has been reduced to 137 – already a 38.2% reduction.