

Name and Title of Agency Chief FOIA Officer: *Roger Baker, Chief Information Officer,  
Department of Veterans Affairs*

## **Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

*Yes; VA has held agency-wide FOIA conferences and training to discuss the new VA FOIA implementing regulations that took effect in September 2011. Furthermore, individual FOIA offices within the VA Central Office (VACO) hold their own training sessions for their field facilities.*

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

*Yes; agency FOIA professionals attend FOIA training provided by the Department of Justice (DOJ) as well as training conferences held by professional FOIA organizations. VA also hosted the Office of Government Information Services (OGIS) to discuss efforts to improve FOIA processing and training on the Alternative Dispute Resolution (ADR) which was provided to FOIA leads.*

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

3. Did your agency make any discretionary releases of otherwise exempt information?

*Yes; VA has made discretionary releases of otherwise exempt information. It is VA policy to allow FOIA Officers to make discretionary releases of records or information exempt from disclosure under the FOIA when permitted to do so in accordance with current law and governmental policy.*

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

*VA FOIA offices release information on a discretionary basis if the requested information falls under Exemption 2, which protects records “related solely to the internal personnel rules and practices of an agency,” and Exemption 5, which covers inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency.”*

5. Describe your agency’s process to review records to determine whether discretionary releases are possible.

*Because the VA FOIA program operates in a decentralized manner, each VA component is responsible for determining which of its records may be released even though the information may technically be withheld under any of the exemptions. The overall process consists of the FOIA Officer receiving the requested records, and determining whether a discretionary release is possible.*

*FOIA Offices post information that is generated by the respective components. For instance, the Office of the Inspector General (OIG) publishes on its public website reports concerning audits, inspections, and investigation of VA’s operations.*

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

*In an effort to continuously improve transparency initiatives, VA is moving its electronic health record system to the open source community. By doing so, VA is in the process of making available the source code of its Veterans Integrated Systems Technology Architecture (VistA) to allow the public and private sectors to improve the system.*

*Other offices, such as the Office of Acquisition and Logistics hold weekly meetings with their senior leadership on pending requests.*

*Computer availability in centralized locations allows visitors’ access to VA regulations, manuals and procedures.*

*Furthermore, the Veterans Health Administration (VHA) has recently began sharing data with the Centers for Medicaid and Medicare Services (CMS) to participate on CMS Hospital Compare (<http://www.hospitalcompare.hhs.gov/>), a website established by CMS to promote reporting of hospital quality of care. VA Hospital Compare (<http://www.hospitalcompare.va.gov>) is a website developed for Veterans, family members and their caregivers to compare the performance of their VA hospitals to other VA hospitals. VA quality and performance information is provided on VA Hospital Compare through the use of the ASPIRE and Links dashboard reporting tools.*

In Section V.B.(1) of your agency’s Annual FOIA Report, entitled “Disposition of FOIA Requests – All Processed Requests” the first two columns list the “Number of Full Grants” and the “Number of Partial Grants/Partial Denials.” Compare your agency’s 2011 Annual FOIA Report with last year’s Annual FOIA Report, and answer the following questions:

7. Did your agency have an increase in the number of responses where records were released in full?

*No; in fiscal year (FY) 2010, 11,808 requests were granted in full. In FY 2011, 10,821 requests were granted in full. The decrease in full grants of information is mostly attributed to the fact that VA received approximately 1,400 fewer requests in FY 2011 than in FY 2010.*

8. Did your agency have an increase in the number of responses where records were released in part?

*Yes; in FY 2010, 7,031 requests were granted in part. In FY 2011, 8,851 requests were granted in part, an increase of over 1800 additional releases.*

## **Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective

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

*VA FOIA Service is located within the Chief Information Officer's office and coordinates its response with information technologists. IT support is generally good and responsive. The software vendor for VA's FOIA tracking system has created a helpdesk technical support hotline to assist users with any questions or technical difficulties they may have while processing FOIA requests. Additionally, a department-wide VA helpdesk number is available to assist users with any IT technical difficulties that may arise. The software vendor has also been able to enhance its reporting to allow management to better track the types of records requested and the backlog involved in processing those request. The result has been that management is given a better idea of the types of records that may be backlogged so that appropriate mitigation strategies can be developed.*

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

*Yes; the CFO is advised weekly of VA FOIA's metrics.. These metrics include the number of FOIAs received and processed during the week, by office and by Administration. In addition, monthly briefings to the CIO include FOIA performance. The CIO is now also provided with information on sensitive requests as soon as they are received.*

3. Do your FOIA professionals work with your agency's Open Government Team?

*Yes. The VA FOIA Service, which is responsible for overseeing department-wide compliance with FOIA works with VA's Open Government Team Lead and is a member of the Open Government team as VA. The two offices held meetings to identify ways to share information received regarding disclosures of information, in compliance with VA's Open Government Plan, and the administration's push for open government. The VAs Open Government Plan includes a section devoted to FOIA.*

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

*VA is in the process of developing a FOIA Steering Committee that will be used to address common concerns raised by the FOIA Officers. The FOIA Steering Committee will be a platform that will allow discussion between FOIA Officers concerning staffing and other issues, and will assist in identifying remediation techniques to assist in properly staffing VA's FOIA program.*

*Other offices have made efforts to obtain contractor support for FOIA request processing, and some have developed internal standard operating procedures to ensure that delays in processing FOIA requests be reported immediately to leadership.*

*VA provides reports to management which includes backlog information by Administration and Headquarters components, which are provided weekly to the CIO and are reviewed monthly by the IT management team. This information can be used to assess those offices which are experiencing backlogs so that resources including staffing can be reallocated accordingly.*

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

*As discussed above, VA is in the process of developing a FOIA Steering Committee that will be used to identify VA FOIA improvement techniques, FOIA awareness and education, and FOIA staffing matters. Several VA components have gone through a reorganization, which has enabled them to rework their FOIA procedures this year, and have successfully implemented their new FOIA*

*operating model, which ensures a more comprehensive search mechanism when searching for records responsive to a FOIA request.*

*VA FOIA Service has developed templates which are included in the automated tracking system used for FOIA requests. These templates allow the FOIA Officer to respond more quickly using a standard response. In addition, FOIA Service prepares an acknowledgment letter at the time the request is received to let them know the contact information of the FOIA Officer handling the request.*

*Other FOIA offices, such as the Office of Resolution Management (ORM) are in the process of developing internal training programs to provide regional offices with the skills and knowledge necessary to process FOIA requests that are made in their respective regions.*

*Certain FOIA Offices, including the Office of Construction and Facilities Management (CFM) have hired contractor support to assist in processing FOIA requests.*

### **Section III: Steps Taken to Increase Proactive Disclosures**

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

*Yes; VA has added new material to its website since last year.*

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

*VA has added updated information related to the VistA database including software, patches, and terminology files. The Office of General Counsel (OGC) now posts Precedent Opinions on its website.*

*The Office of Policy and Planning (P&P) posts most of its National Center for Veterans Analysis and Statistics reports, datasets, etc. online.*

*The OIG routinely adds new audit, inspection and investigative reports to the public website. The OIG also provides the general public access to press releases, congressional testimony and monthly highlights. The Release of Information*

*Office within OIG continues to work closely with the various OIG components to ensure that many reports and other documents do not have to be restricted from public view.*

*In 2011, VA began releasing its VistA software as an open source software available to anyone. This is a change from earlier policy which had required a FOIA request before the software could be considered for release.*

*VBA has added material to its website to increase awareness of the services that VA provides to homeless Veterans, listing of Special Programs and Initiatives including the Women Veterans Program, the Homeless Veterans Initiative and others. Links to the VA Loan Guaranty Service and the VA Insurance Service have been added. Multiple training videos, copies of Loan Guaranty broadcasts and program literature have been posted online and updated information of names of new counselors and their areas of responsibility.*

3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

*By communicating directly with FOIA records custodians, several VA FOIA components have implemented techniques to identify records that are appropriate for posting. For example, upon receiving and responding to a FOIA request for VistA software, the OIT Product Development (PD) team automatically posts the requested records on a public website. Furthermore, the PD team has conducted a thorough review of this software and has proactively disclosed an increased amount (as compared to previous years) of records that are now available on the public website for download.*

*As indicated above; P&P posts many datasets online provided there is no personally identifiable information (PII) attached to it on some way. The office is very careful to ensure that no direct Veteran information is released.*

*Other offices have developed standardized procedures for identifying records for posting. For instance, the ORM FOIA Officer requests from ORM directors any documents or records that might be of possible interest to the public. These submissions are then reviewed, and determined if a discretionary release is possible. The OIG Release of Information Office receives reports from other OIG components for review and consultation to publish on the OIG Website.*

4. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

*The Office of Information Technology (OIT) has held numerous discussions in the past year with the PD team to streamline the posting of VistA software patches*

*that may be of public interest and released accordingly. The result has been that the software is now available in Open Source format.*

*The Office of Acquisition and Logistics (OAL) is in the process of developing an initiative in new contracts or solicitations; giving notice to vendors that the final contracts would be placed on OAL's public website for public dissemination.*

*The Office of Policy and Planning has developed several outreach portals, and has added features that allow the public to contact the office.*

*Other offices, such as OIG, have updated their FOIA Website. As a result of the revisions to the OIG Website, the general public can easily search for specific oversight reports. The new search features allows visitors to search for records by date range, report location, type, author, numbers, and specific key words.*

*On a monthly basis, reports are provided to Veteran Services Officers (VSOs) which contain data on pending claims, number of awards and dollar amounts paid within jurisdictions to the VSOs.*

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

*The VA FOIA Service is in the process of scheduling meetings with FOIA Officers as well as the agency's Open Government Team to identify records and datasets that may be disclosed proactively. Certain offices have implemented processes that allow them to continuously consider new documents to post online, and subsequently publish them on their staff office's website.*

## **Section IV: Steps Taken to Greater Utilize Technology**

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

### *Electronic receipt of FOIA requests:*

1. Can FOIA requests be made electronically to your agency?

*Yes; the public has the option of making FOIA requests to VA electronically. VA's revised regulations published in 2011 now provide instructions on how requestors can file electronically using e-mail.*

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

*Yes; all FOIA components have the capability to receive requests electronically.*

*Online tracking of FOIA requests:*

3. Can a FOIA requester track the status of his/her request electronically?

*No. If not, is your agency taking steps to establish this capability?*

*The VA is examining software that could be used to allow the requestor to track his/her request but has not yet adopted any specific software at this time.*

*Use of technology to facilitate processing of requests:*

4. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

*Yes; VA has taken steps to utilize advanced technology to facilitate overall FOIA efficiency.*

5. If so, describe the technological improvements being made.

*Several VA components have established electronic records management systems to locate requested records with relative ease. Other offices, such as OIT, have held internal meetings to better streamline the searching of records requested under FOIA that are maintained by OIT. Furthermore, VA's electronic FOIA tracking system has capabilities that allow documents to be stored electronically to improve collaboration on FOIA requests.*

*Other offices have implemented robust document sharing platforms that allow them to collaborate with their staff offices on processing and responding to FOIA requests.*

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs**

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple"



requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

- a. Does your agency utilize a separate track for simple requests?
- b. *Yes; since implementing its new FOIA regulations on September 19, 2011, VA has established a separate track for processing simple requests. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?*

*Yes; the average number of days to process simple requests is 1.48 days.*

- c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

*N/A*

2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.

- a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

*The backlog has remained the same at the close of FY 2011 compared to FY 2010. However, as of the date of this report, VA backlog has been reduced approximately 30% since the 2011 Annual report was submitted*

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

*No; the backlog has increased at the close of FY 2011 compared to FY 2010.*

- c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

*No; However, VA did manage to close half of its ten oldest requests that were pending as of the end of FY 2010.*

- d. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

*Not all but VA has closed 70% of its ten oldest administrative appeals that were pending as of the end of FY 2010.*

3. If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

*No; the lack of reduction in the request backlog was not a result of an increase in the number of incoming requests.*

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

*No; the lack of reduction in the request backlog was not a result of a loss of staff.*

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

*The complexity of requests received is most likely the most significant factor in the lack of reduction of the backlog. Since last year, VA has established a FOIA Backlog Working Group to identify FOIA request categories that classify the general scope of requests received. Our statistics indicate that a significant number of backlogged requests pertain to Veteran pension files as well as contracts, both of which require the consultation and searching of multiple offices within VA, which increase the complexity of the requests received. In addition, requests for historical pension file information (e.g., Civil War and Spanish American War Pension files) can result in delays as VA consults with the Federal Records Center. These historical records also require special handling due to the age and fragility of the paper records contained in each file.*

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

*The vast majority of FOIA Officers perform their FOIA duties on a collateral basis, and therefore are responsible for other tasks in addition to FOIA. This causes a significant burden on limited resources of VA FOIA professionals when their other responsibilities take precedence over FOIA.*

*While the FOIA backlog has not increased, VA was not able to reduce its backlog numbers in FY 2011. FOIA offices have reported that their continued*

*backlog is due to the fact that intra-agency collaboration must be conducted to approve the release of joint information. Other offices have reported that a significant portion of their backlog is due to the requirement to send submitter notices to submitters. However, since October 1, 2011, VA has reduced its backlog by over 30% (from 794 to 427)*

**Administrative Appeal Backlog:**

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

*Yes; the lack of a reduction in the backlog of administrative appeals was due to an increase in the number of incoming appeals. In FY 2010, VA received 231 appeals and processed 185. In FY 2011, VA received 345 appeals and processed 229.*

- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

*No; staff processing appeals has remained constant since last year.*

- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

*In some cases, but the almost 50% increase in the number of appeals received is the key factor.*

- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

*N/A*

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

*Yes, VA leadership routinely monitors the progress of the FOIA caseload, backlog, and other metrics. Reports concerning the overall VA backlog are reported to the agency's Executive Leadership Board on a weekly basis.*

*Other staff offices monitor and report on their individual backlogs on a routine basis to their executive leadership, and discuss the reasons for the backlog, as well as remedial actions to be taken.*

2. Has your agency increased its FOIA staffing?

*No, VA has not increased its FOIA staffing. Staffing has actually decreased in the past year and VA has been slow to replace personnel.*

3. Has your agency made IT improvements to increase timeliness?

*Yes, several offices have made improvements to increase timeliness in processing FOIA requests. For example, the FOIA Service held discussions with OIT records custodians to identify ways to improve the search time of FOIA requests. Other offices are now using electronic redaction software, and electronic Content Management System database to allow FOIA Officers to easily search for responsible records.*

4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

*No, VA has only received six consultations from other agencies in FY 2011.*

## **Use of FOIA's Law Enforcement "Exclusions"**

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?

*No, VA has not invoked a statutory exclusion in Fiscal Year 2011*

2. If so, what is the total number of times exclusions were invoked?

*N/A*

## **Spotlight on Success**

Out of all the activities undertaken by your agency since March 2011 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

*Since March 2011, VA has undertaken several initiatives to improve transparency and FOIA compliance. In September of last year, VA updated and implemented its new FOIA regulations, which allow for easier access to records whereby requesters can now submit requests electronically through a less burdensome*

*process. For instance, the new regulations no longer require FOIA requesters to sign their requests in writing, except in the event that the request concerns documents involving a personal privacy interest or documents protected by another confidentiality statute.*

*To help Veterans have access to their health information regardless of where they get their care, the Department of Veterans Affairs (VA) sponsored the Blue Button® for All Americans Prize Contest. This contest challenged health information technology (HIT) software developers to include a Blue Button data download function in personal health records (PHR) systems and then arrange to install the PHR on patient-facing websites of 25,000 doctors across America*

*Furthermore, the VA FOIA Service has been proactive in reaching out to VA's Open Government team to increase collaboration across multiple areas of the agency. By scheduling regular meetings, the two offices keep each other abreast of developments made with respect to FOIA, disclosure, and public access to information.*

*All 152 VA medical centers are now actively represented on Facebook, the world's largest social networking site. The Department plans to continue expanding its Facebook presence while also focusing on bringing Twitter to every VA medical center as well.*

*A directory of VA Social Media sites is located at: [www.va.gov/opa/SocialMedia.asp](http://www.va.gov/opa/SocialMedia.asp).*

*In FY 2011, 322 FOIA personnel were provided face-to-face training on the administration of FOIA. In addition, VHA monitors the FOIA backlog on a weekly basis to ensure that the backlog continues to decrease over time. VHA has taken significant steps to ensure that VHA senior leadership is aware of, and assisting in the addressing of, the FOIA backlog.*