



Recovery Accountability and Transparency Board
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Chief FOIA Officer Report
2013

The Recovery Accountability and Transparency Board (Board) was created by the American Recovery and Reinvestment Act of 2009 (Recovery Act) to promote accountability by coordinating and conducting oversight of Recovery Act funds to prevent fraud, waste, and abuse and to foster transparency of Recovery Act spending by providing the public with accurate, user-friendly information. The Board submits this report in accordance with the Attorney General's Freedom of Information Act (FOIA) guidelines issued on March 19, 2009, calling upon agencies to reaffirm "our nation's commitment to open government." Specifically, the provision directing agency Chief FOIA Officers to review "all aspects of their agencies' FOIA administration" and to report annually to the Department of Justice on the steps taken "to improve FOIA operations and facilitate information disclosure."

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

The Chief FOIA Officer and FOIA Public Liaison attended two training sessions offered by the Department of Justice through the Director's Lecture Series. Due to the relatively small size of the Board and the involvement of the Chief FOIA Officer and/or the FOIA Public Liaison in all FOIA requests received by the Board, no formal training was provided to other Board staff.

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.

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

Yes.

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

Section 552(b)(5).

4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

The Board has released, as a matter of discretion, internal communications that could have in good faith been exempted from disclosure due to their deliberative content and/or content protected by the attorney-client privilege.

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

The Board has undertaken no formal initiatives; however, the Chief FOIA Officer and/or FOIA Public Liaison review each request to ensure the presumption of openness is appropriately applied in preparing a response.

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?

Yes.

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

The Board currently does not have an Open Government Team.

3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?

The Board informally assesses on a regular basis whether adequate staffing is being devoted to FOIA administration. Currently, adequate staffing is being devoted to FOIA administration.

4. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.

Due to the Board's timely response to all FOIA requests received in fiscal year 2012 and the relatively small size of the Board and volume of FOIA requests it receives, the Board has not undertaken any additional formal steps to ensure efficiency and effectiveness; however, the FOIA staff review each request as it arrives to determine the most efficient and effective manner of locating responsive documents and preparing a response. Moreover, the FOIA staff implements lessons learned in the processing of past FOIA requests when responding to subsequent 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 2012 to March 2013). 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. Provide examples of material that your agency has posted this past year.

The Board continues to maintain and update a user-friendly, public-facing website, Recovery.gov, which is a portal to key information relating to the Recovery Act. Recovery.gov provides access to detailed data on contracts, grants, and loans awarded by the federal government under the Recovery Act. The Board has created interactive visualizations (charts, graphs, maps) and recipient profiles to surface the data to the public in an easily comprehensible display.

2. 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.?

Yes.

3. If so, provide examples of such improvements.

During the reporting period, the Board conducted user testing and took steps to make information on Recovery.gov more useful and available to the public, including:

- Conducting a complete revision of the map detailing all awards reported by recipients of Recovery Act funding (“Recipient Project Map”) to provide users with easy access to recipient, state, and agency data, as well as summaries of the awards on a single page;
- Creating a Recovery Funding Status Report that details the appropriations, funds awarded, funds still to be awarded, and funds expired for each agency making Recovery Act awards;
- Creating agency profiles reflecting total funds awarded, as well as total funds paid out data viewable by funding category and by award type; and
- Conducting formal user testing of Recovery.gov. The Board has already implemented many of the recommendations arising from the user testing and anticipates posting a summary of the results of the user testing shortly on Recovery.gov.

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

The Board strives to make the public aware of new features and information available on Recovery.gov through the use of social media.

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. FOIA requesters may submit FOIA requests via email at FOIA@ratb.gov.

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

Not applicable. All requests are processed centrally because the Board does not have components.

Online tracking of FOIA requests:

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

No. Currently, a FOIA requester can track the status of his/her request by contacting the Board's FOIA office via email or phone.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review. List the specific types of information that are available through your agency's tracking system?

Not applicable.

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

Not applicable.

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

At this time, due to the Board's size, the small number of FOIA requests received by the Board, and the Board's status as a temporary federal agency, the Board has not taken steps to establish this capability.

Use of technology to facilitate processing of requests:

7. 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?

At this time, due to the Board's size, the small number of FOIA requests received by the Board, and the Board's status as a temporary federal agency, the Board has not taken steps to utilize more advanced technology to facilitate overall FOIA efficiency. Moreover, in light of the Board's status and low volume of FOIA requests received, the cost effectiveness of implementing such advanced technology is doubtful.

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

Not Applicable.

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 2012 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?

No.
 - b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

Not Applicable.
 - 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?

Yes.
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 2012 as compared to Fiscal Year 2011. 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 2011 and Fiscal Year 2012 should be used for this section.
 - a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

Not Applicable.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

Not Applicable.

- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

Not Applicable.

- d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

Not Applicable.

- 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:

SECTION NOT APPLICABLE.

Request Backlog:

- a. Was the lack of a reduction in the request backlog 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?
- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?
- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

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?
- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?
- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?
- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

4. OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Not applicable.

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 2012?

No.

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

Not Applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 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. The success story can come from any one of the five key areas.

See response to Sections III(1) and III(3).