

# **Chief FOIA Officer Report**

## **Committee For Purchase From People Who Are Blind or Severely Disabled**

**February 20, 2015**

### **E. Ballard, Executive Director and Chief FOIA Officer**

The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee), operating as the U.S. AbilityOne Commission, administers the AbilityOne Program pursuant to the authority of 41 U.S.C. § 8501 *et seq.* Through the AbilityOne Program, employment opportunities are provided to people who are blind or severely disabled through the provisions of products and services to the Federal Government.

The Committee is a small agency with 25 full time employees (FTE). Due to the small size of the agency and the small volume of FOIA requests, FOIA Administrator duties are a part-time responsibility of one employee. The General Counsel provides supervision and oversight of the FOIA program and reviews each FOIA request with the FOIA Administrator. The Executive Director, as the Chief FOIA Officer, provides overall guidance and direction for the Committee's FOIA program.

## **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.

### ***FOIA Training:***

*1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?*

*Yes, Freedom of Information Act for Attorneys and Access Professionals*

*2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.*

*FOIA administration is a part-time responsibility of one employee and that employee attended FOIA training.*

*3. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.*

*Due to the small size of the agency, only one employee performs FOIA administration functions on a part-time basis; therefore, there is no formal plan; however, the agency ensures that the employee has access to FOIA training opportunities.*

### **Discretionary Releases:**

4. Does your agency have a distinct process or system in place to review records for discretionary release?

*Yes. Each FOIA request response is evaluated by the FOIA Administrator and General Counsel to determine if agency records that may be technically exempt from disclosure under the FOIA could be included as discretionary released documents. In addition, all agency personnel are advised to recommend records for discretionary release when considering individual FOIA requests.*

5. During the reporting period, did your agency make any discretionary releases of information?

*Yes*

6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance [on implementing the President's and Attorney General's FOIA Memoranda](#).

*5 U.S.C. § 552(b) (5)*

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

*Documents relating to the agency's deliberative process regarding what products and services are suitable for addition to the Procurement List and information on the average wages and hours worked by people who are blind or with other significant disabilities in the AbilityOne Program.*

### **Other Initiatives:**

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

*A new website is being developed with a content management system (CMS) that will allow for agency personnel to easily update content and post new materials online.*

## **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." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

### **Processing Procedures:**

1. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

*We did not have any requests for expedited processing during FY2014.*

### **Requester Services:**

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "[Notifying Requesters of the Mediation Services Offered by OGIS](#)." (July 9, 2010)

*We did not have any administrative FOIA appeals; therefore, we did not have any requirement to notify requesters of mediation services.*

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "[The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications](#)." (Nov. 22, 2013)

*N/A - We did not assess fees for any FOIA request in FY2014.*

5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See [id.](#)

*N/A*

### **Other Initiatives:**

6. If there are 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, eliminating redundancy, etc., please describe them here.

*No. Due to the small size of the agency, the limited number of FOIA requests, and the part-time FOIA administration responsibility of only one employee, no new steps were undertaken during this fiscal year.*

### **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.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

### **Posting Material:**

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

*FOIA personnel, along with the Communications Director and other senior staff, routinely review existing and new agency documentation for potential proactive disclosures and then coordinate with the Chief Information Officer for website posting parameters.*

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

*As a very small agency, collaboration, communication, and coordination among all senior staff is routinely conducted to identify potential materials for proactive disclosure.*

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

*All FOIA requests are monitored and if any "frequently requested" records are identified, then they are considered for posting online.*

4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

*New products and services approved for addition to the Committee's Procurement List are regularly added to the website along with new agency policies and procedures adopted during the year.*

### **Other Initiatives:**

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

*A new website is being developed with a content management system (CMS) that will allow for agency personnel to easily update content and post new materials.*

### **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.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

### **Making Material Posted Online More Useful:**

1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

*Not at this time; however, we expect that all agency personnel will be involved in the development of the new website that will allow immediate CMS updates.*

2. *If yes, please provide examples of such improvements.*

*N/A*

3. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?*

*No*

4. *If so, please briefly explain what those challenges are.*

*N/A*

**Other Initiatives:**

5. *Did your agency successfully post all four quarterly reports for Fiscal Year 2014?*

*No*

6. *If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.*

*Only one quarterly report was posted due to the limited personnel resources and the small number of FOIA requests. Posting all quarterly reports is a goal for FY15.*

7. *Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "[The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications](#)." (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?*

*Yes*

8. *If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See [id.](#)*

*N/A*

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

*The [President](#) and the [Attorney General](#) have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report 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, appeals, and consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.*

**Simple Track:** 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.

1. Does your agency utilize a separate track for simple requests?

Yes

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Yes

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

81.25%

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

N/A

**Backlogs:** Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

### **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

N/A

- If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
  - An increase in the number of incoming requests
  - A loss of staff
  - An increase in the complexity of the requests received

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."

N/A

- To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of

requests received in Fiscal Year 2014, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

### **BACKLOGGED APPEALS**

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

N/A

- If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog. When doing so, please also indicate if any of the following were contributing factors:
  - An increase in the number of incoming appeal
  - A loss of staff
  - An increase in the complexity of the appeals received

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

N/A

- To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of appeals received in Fiscal Year 2014, which can be found in Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

**Status of Ten Oldest Requests, Appeals, and Consultations:** Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

### **TEN OLDEST REQUESTS**

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

N/A – no requests were pending from FY13.

10. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A

- For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed six of them, you should note that you closed six out of seven "oldest" requests.

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

### **TEN OLDEST APPEALS**

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

*N/A – no-- appeals were pending from FY13.*

13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

*N/A*

- For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.

### **TEN OLDEST CONSULTATIONS**

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

*N/A – no consultations were pending from FY13.*

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

*N/A*

- For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.

### **Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:**

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

*N/A*

17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

*N/A*



18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2015.

N/A

**Use of the FOIA’s Law Enforcement Exclusions**

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No

If so, please provide the total number of times exclusions were invoked.