

**INSTITUTE OF MUSEUM AND LIBRARY SERVICES
CHIEF FOIA OFFICER REPORT
2012**

INTRODUCTION

The Institute of Museum and Library (IMLS) recognizes that the Freedom of Information Act (FOIA) is a fundamental element of Open Government. By applying a presumption of openness and maintaining effective FOIA operations, IMLS seeks to expand the availability of information about the agency's programs and operations to the public. The following report describes the steps taken by IMLS to implement FOIA during Fiscal Year 2011.

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?

In March 2011, the FOIA Processor and Chief FOIA Officer provided agency-wide FOIA training to all IMLS employees. In addition to outlining the agency's FOIA process and highlighting the new FOIA provisions, the training also emphasized the need for openness and transparency as set forth in both the President's FOIA Memorandum and Attorney General's FOIA Guidelines.

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

Yes. The Institute's FOIA Representatives routinely attend FOIA and Chief FOIA Officer training provided by the Department of Justice.

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?

Throughout the year, the agency's Chief FOIA Officer works with program managers and agency FOIA Representatives to ensure that barriers that would hinder transparency and openness within the agency's programs, processes and procedures are adequately addressed or alleviated altogether. The agency is committed to making discretionary releases that will not result in foreseeable harm to the agency's clients, employees, programs, or operations. This year,

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IMLS greatly expanded the amount of information made publicly available through its website. In particular, it posted information about all agency awards, significant data sets, and evaluations of the agency's funding programs. It further made available plans and evaluations of the State library activities funded through the agency's Library Grants to States program.

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

The limited information that was released as a matter of agency discretion could have been covered under 5 U.S.C. § 552(b) (5).

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

The FOIA Representatives review all records that are responsive to a particular FOIA request. When there is the possibility of making a discretionary release with respect to a particular FOIA request, the FOIA Representatives consult with the agency's General Counsel/Chief FOIA Officer. In addition, the agency's FOIA officials and program managers meet periodically to discuss proactive release of agency records pursuant to the FOIA and Open Government Act.

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

As described above, IMLS recently launched an enhanced website, greatly expanding public access to information about agency investments in community institutions, as well as data and policy briefs associated with a variety of issue areas such as early learning, health, workforce, STEM (science, technology, engineering, and math) learning, and broadband.

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?

The agency's full releases decreased from 12 in Fiscal Year 2010, to 11 in Fiscal Year 2011. Please note, however, that the number of FOIA requests that were received and processed by the agency has also decreased from 51 to 36, respectively. The agency's response rate for providing full releases by FOIA request, therefore, actually increased from **23% to 31%** in the past year.

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

The number of FOIA requests in which a partial release was granted by the agency decreased from 27 in Fiscal Year 2010, to 16 in Fiscal Year 2011. Please note, however, that the number of FOIA requests that were received and processed by the agency has also decreased from 51 to 36, respectively. The rate of partial releases per FOIA request decreased from 53% to 44%, but may be explained by the increase in full releases, as noted in Question 7.

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. The Office of the Chief Information Officer continues to effectively support the agency's FOIA operations. In addition to making enhancements to the agency's FOIA database, which IMLS created to process and track agency FOIA requests, the OCIO provided assistance in updating the agency's FOIA web capabilities. The IT support within the Institute is sufficient to properly carry out the agency's FOIA processing needs.

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

The agency's FOIA Representatives and Chief FOIA Officer interact with each other on a daily basis to determine training requirements and to coordinate FOIA processing functions within the agency. Also, after preparation of the agency's Annual FOIA Report, the Chief FOIA Officer meets with FOIA Representatives to assess the agency's FOIA processing system and to determine if there are any staffing or resource issues that would prevent the timely processing, review, and release of agency information pursuant to the FOIA.

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

The agency's Chief FOIA Officer, FOIA Representatives, Open Government personnel, and senior program managers meet periodically (or as needed) to discuss FOIA processing issues and to recommend documents for proactive or discretionary agency release.

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

After preparation of the agency's Annual FOIA Report, the Chief FOIA Officer meets with FOIA Representatives to assess the agency's FOIA processes and to determine if there are any staffing or resource issues which would prevent the timely processing, review and release of agency information pursuant to the FOIA. Based on this year's assessment, it was determined that the agency's FOIA Representatives and current FOIA resources are sufficient to respond timely and appropriately to all FOIA requests received by the agency.

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

The Chief FOIA Officer works proactively with FOIA Representatives and the FOIA Liaison to determine if any complaints or issues have been received from the public or the agency's internal staff with regard to FOIA processing times, functions, and release of agency information. During Fiscal Year 2011, IMLS received no complaints from FOIA requesters and the agency's internal staff has worked both efficiently and effectively to ensure that all releasable agency document are processed in a timely manner.

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.

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

Yes. IMLS regularly updates its website with new material.

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

The agency regularly posts new records to its website as they become available. These categories of records include: annual updates to the agency's grant guidelines; press releases; reports; and grants awarded by IMLS.

In keeping with the President's FOIA Memorandum, Attorney General's FOIA Guidelines, and Open Government Directive, the agency also posted research documents related to data sets, program evaluations, and data analysis tools on its main agency website. See http://www.ims.gov/research/data_sets.aspx In addition, in connection with the agency's Library Grants to States programs, the agency has also posted each State's five year plan for delivering library services and documents which show the public how each State is using and leveraging IMLS funds. See <http://www.ims.gov/programs/default.aspx> Information about all of the agency's awards is posted on the agency's website.

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

Many of the records posted on the website were created specifically to be made available to the public, such as press releases, reports, podcasts, and other IMLS-produced materials. Other records are posted to inform the public about the agency's operations, programs, and activities. For example, IMLS posts guidelines and all grants awarded by the agency. The agency's FOIA Representatives, Open Government personnel, and program managers regularly discuss enhancements to the website and the proactive release of agency records and information.

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 IMLS has begun to use social media and other citizen-centered-model strategies to enhance public participation in the development of agency programs and encourage collaboration. The agency recently launched an enhanced website using a content management system that allows the public to learn about agency investments in community institutions and find data. New features of the web site include enhanced search capacity and new content using multimedia to raise public awareness about agency programs and policies.

In addition, IMLS engages regular web users in webinars to provide more explanatory information about agency programs and activities and provide a venue for feedback.

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

IMLS provides an RSS feed (<http://www.ims.gov/rss.xml>) to subscribers who wish to be notified of new or updated information on the agency's website. This information includes but is not limited to: press releases, grant guidelines, research and data sets; etc. Also in order to further assist in the proactively dissemination of agency information to the public, the agency has also added an interactive blog to its website. This new media venue provides another means for the agency to solicit and receive feedback from the public with regard to the agency's programs, policies, and procedures.

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.

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

The agency does not have any other components.

Online tracking of FOIA requests:

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

No.

4. If not, is your agency taking steps to establish this capability?

No. Given the size of the agency and consistent timely processing of requests, the agency has not adopted this capability.

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Use of technology to facilitate processing of requests:

5. 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. The agency uses enhanced search capabilities to improve its efficiency in processing requests.

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

To improve the agency's IT efficiency and aid in identifying requests that respond to FOIA requests, the Office of the Chief Information Officer upgraded the Institute information technology operating systems. These upgrades include a more efficient word search and document retrieval mechanism that helps to locate email records quicker and with more accuracy when searching archives. The agency has also developed a SharePoint site, which provides a central repository with updated word search capability that allows for quicker, more accurate searches of agency documents in a central location, but provides for version control to ensure the information that is retrieved is responsive and not duplicative. The agency regularly implements technology upgrades to better align its FOIA database with FOIA processing requirements.

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?

Yes.

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b. 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.

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 agency did not have any backlogged FOIA requests in 2010 or 2011.

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

The agency did not have any backlogged FOIA appeals in 2010 or 2011.

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

The agency has closed all pending requests from 2010.

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

The agency did not have any pending FOIA appeals in 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

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number of incoming requests?

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

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.

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

The agency's primary goal is to process simple FOIA request within the 20 working day statutory time limit. The IMLS has consistently met this goal and is currently averaging approximately 11 working days to process simple FOIA requests.

2. Has your agency increased its FOIA staffing?

No.

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

As noted above, to improve the agency's IT efficiency and aid in identifying requests that respond to FOIA requests, the Office of the Chief Information Officer upgraded the Institute information technology operating systems. These upgrades include a more efficient word search and document retrieval mechanism that helps to locate email records quicker and with more accuracy when searching archives. The agency has also developed a SharePoint site, which provides a central repository with updated word search capability that allows for quicker, more accurate searches of agency documents in a central location, but provides for version control to ensure the information that is retrieved is responsive and not duplicative. The agency regularly implements technology upgrades to better align its FOIA database with FOIA processing requirements.

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?

At this time, the agency does not have any written guidelines or agreements with any other federal agencies for handling FOIA consultations. When FOIA consultations are received, however, each consultation is given processing priority in order to assist the requesting federal agency in providing a timely response back to the FOIA requestor. The Institute upgraded its FOIA tracking system to better identify requests requiring consultations with other agencies, thereby enhancing the agency's ability to process these requests in a timely manner.

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:

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

No.

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.

One of the major success stories for IMLS was the enhancement of its website, which provides access to data, program evaluations, and information about all of the agency's activities. Also of special note this year was the agency's enhanced use of social media to interact with the public. For example, the agency used IdeaScale, a social media platform, to engage citizens in the development of IMLS's five-year strategic plan. More than 1,400 users participated by voting for their favorite ideas, adding new ideas, and commenting on ideas, helping to ensure that the agency's strategic plan reflected the most pressing needs and incorporated the most current information available regarding museum, library, and information services and community needs. In addition, the agency established a new IMLS blog, "UpNext," to promote public participation in the agency's programs and activities.

In Fiscal Year 2011, IMLS increased the amount of information it makes available to the public, and has seen a decrease in the amount of FOIA requests received by the agency.