

CHIEF FOIA OFFICER'S REPORT

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

MARCH 11, 2013

This report has been prepared by Nancy E. Weiss, IMLS's General Counsel and Chief FOIA Officer, in compliance with the "Guidelines for Chief FOIA Officer Reports to the Department of Justice Pursuant to Attorney General Holder's FOIA Guidelines," published by the Office of Information Policy on September 30, 2009. Questions concerning this report can be addressed to my attention by phone at 202-653-4640 or by e-mail at nweiss@imls.gov.

IMLS's 2013 Chief FOIA Officer Report addresses the agency's activities that have occurred since the filing of last year's Report, which was March 12, 2012, up until the filing of the 2013 Report.

INTRODUCTION

The Institute of Museum and Library ("IMLS" or the "Institute") 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 2012.

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?

The Institute's FOIA representatives routinely conduct informal Freedom of Information Act (FOIA) training and information briefs with agency managers and IMLS staff members. This year, the Chief FOIA Officer also briefed senior managers on: (1) the need to ensure transparency and openness in agency processes and operations; (2) the importance of maintaining FOIA efficiency in carrying out the agency's statutory FOIA processing requirements; and (3) the Department of Justice's (DOJ's) new reporting requirements.

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

Yes. IMLS FOIA personnel regularly participate in available training opportunities. For example, in October 2012, the Institute's FOIA Processor attended training offered by the U.S. Department of Justice.

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?

The information released as a matter of agency discretion would normally have been covered under Exemptions 4 and 5.

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

IMLS is committed to making discretionary releases of agency information, in a manner that will not diminish the integrity of its programs and operations, nor result in foreseeable harm to its employees. After consulting with DOJ and working collaboratively with FOIA Representatives, the General Counsel and Open Government staff expanded the amount of information that will be made publically available on the agency's website. In addition, the agency reviewed a longstanding FOIA exemption practice that resulted in withholding certain grantee information pursuant to Exemption 4. After the review was conducted, the agency determined that this information may be appropriate for discretionary release.

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

- a. In 2012, IMLS Grants to States Program drew information from a password-protected database of funded projects and made them available to the general public through the "Search Awarded Grants" section of the IMLS website (<http://www.imls.gov/recipients/grantsearch.aspx>). Initially, only projects categorized as "exemplary" had been listed, but 2012 saw the inclusion of every single project title, amount, and institution among Grants to States projects that were completed and approved. This made over 1,000 funded projects more transparent to the general public.
- b. In 2012, IMLS added a new section to its website on the Measuring Success initiative (<http://www.imls.gov/programs/default.aspx>), which will help IMLS and the state library administrative agencies plan for, manage and evaluate grant-

supported library activities. This new web-based information was intended to provide transparency about the initiative and engage library professionals, researchers and other stakeholders in the continual improvement of the program.

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 agency's current information technology support is sufficient to properly carry out its FOIA processing requirements.

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

Yes.

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

During 2012, the FOIA Officer and Chief FOIA Officer did an agency-wide assessment of the agency's FOIA processes and staffing requirements with specific focus on the timely administration of FOIA at various stages within the FOIA process. The assessment confirmed that, based on current FOIA requirements, its FOIA processes are streamlined and FOIA staff support should remain at its current level.

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.

As a result of the self-assessment mentioned above, (Section II, #3), the agency decided to update its FOIA Regulations. Currently, IMLS shares these regulations with both the National Endowment for the Arts and the National Endowment for the Humanities. This year, however, IMLS will be promulgating its own FOIA regulations. These updated regulations are inclusive of the requirements of both the Open Government Act and FOIA. The link below is provided so that you may access the agency's notice of intended action.

http://www.reginfo.gov/public/do/eAgendaHistory?operation=OPERATION_GET_PUBLICATION&showStage=longterm¤tPubId=201210

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.

In 2012, to increase the public's ease of access to and use of agency information, the agency made public library survey data available in various formats. Various links to access survey information provided by the agency can be found below:

Interactive State Profiles:

http://www.imls.gov/research/fy_2010_pls_state_profile_map.aspx

Supplementary Tables:

http://www.imls.gov/research/public_libraries_in_the_us_fy_2010_tables.aspx

Data sets from the statistical program are updated annually in the DATA.GOV portal:

http://www.data.gov/list/agency/45/*

IMLS's program evaluations include more information than is traditionally provided in narrative evaluation reports, such as case studies, data visualizations, and video profiles:

http://www.imls.gov/research/mfa_evaluation.aspx

IMLS provides data to other agencies to assist the public in finding resources to assist job seekers identify employment services in their communities:

<http://www.servicelocator.org/>

2. **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, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?**

Yes.

3. **If so, provide examples of such improvements.**

IMLS provides access to a variety of data tools to help library and museum professionals gauge needs in their respective communities:

http://www.ims.gov/research/data_analysis_tools.aspx

IMLS is also testing interactive GIS visualizations for access to museum data:

<https://www.google.com/fusiontables/embedviz?viz=MAP&q=select+col8+from+1V7wrTyiarGRYLI9wuAerh7fg7OKelXHO9ZQ2owM&h=false&lat=36.56260003738553&lng=-91.0986328125&z=4&t=1&l=col8&y=2&tmplt=2>

This is a spatial analysis of regional Unemployment vis-à-vis Public Facilities Analysis, which mashes up data from the Public Library Survey, the Bureau of Labor Statistics and the Department of Labor's Employment Training Administration:

<http://www.ims.gov/assets/1/AssetManager/OneStopAnalysis.pdf>

Enhanced use of social media: In January 2013 the agency created and launched a Facebook page. This new social media tool will augment existing efforts to promote openness and transparency in the agency's programs and operations. IMLS also updated its UpNext IMLS Blog guidance to make it easier for agency staff members to engage in more informative communications with our readers. It will also enhance the ability of bloggers to engage and interact with IMLS staff and contribute material.

Below are links to the agency's Facebook, Twitter, YouTube, and the UpNext IMLS blog.

<https://www.facebook.com/USIMLS>

http://twitter.com/US_IMLS

<http://blog.ims.gov/>

<http://www.youtube.com/user/USIMLS>

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

The agency's General Counsel, FOIA Representatives, Chief Information Officer, and Open Government staff routinely meet to review and update agency policies, directives, and regulations. In addition, on April 19, 2012, following an Executive Leadership Team (ELT) Strategic Planning retreat, the IMLS Director convened a Knowledge and Transparency Workgroup whose primary objective is to:

“Revise and expand our current taxonomy and tagging system so that it can be consistently and effectively used by staff, applicants and grantees. Develop transparency policies that promote information sharing that can be readily implemented and convenient for interested parties.”

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 receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2013, as we did in 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 is decentralized, can FOIA requests be made electronically to *all* components of your agency?**

The agency does not have any additional components.

Online tracking of FOIA requests:

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

FOIA requestors are kept up to date on the status of their requests through e-mail correspondence and other forms of communication. Given the small size of the agency and its consistent record of providing timely responses to agency FOIA requestors, however, adoption of an electronic tracking system is not considered a necessity and is not economically feasible at this time.

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.**

FOIA requests are acknowledged via e-mail and regular updates are provided to ensure that requestors are aware of the status of their inquiries.

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

N/A

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

The agency considers the costs and benefits of FOIA software on an ongoing basis.

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?**

The agency has enhanced its record search capabilities.

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

Through use of SharePoint, the agency continues to improve upon its ability to use technology to enhance its FOIA processes. Specifically, SharePoint ensures better version control, quicker response times, and less duplication.

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?

Yes.

- 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?

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 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?

The agency did not have a backlog at the end of Fiscal Years 2012 or 2011.

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

The agency did not have a backlog of administrative appeals in Fiscal Years 2012 or 2011.

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

Yes, the agency has closed all requests that were pending at the end of Fiscal Year 2011.

- 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?**

The agency did not have any pending administrative appeals in Fiscal Year 2011.

- 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?**

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:

- e. 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

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

N/A

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

N/A

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

N/A

- 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.**

The agency did not have a backlog in Fiscal Year 2012.

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 was the total number of times exclusions were invoked?**

N/A

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.

Maximizing access to and the effective use of information is a critical part of IMLS's mission and operations. Not only does the agency promote access through its programs of financial assistance, but it recognizes that access to government information is essential achieving the agency's goal of serving the American public as a model agency. Promoting greater transparency and accountability of IMLS operations is one of the agency's primary objectives. See IMLS Strategic Plan 2012-2016, "Creating a Nation of Learners."

On April 19, 2012, following an Executive Leadership Team (ELT) Strategic Planning retreat, the IMLS Director convened a Knowledge and Transparency Workgroup whose primary

objective is to: “Revise and expand our current taxonomy and tagging system so that it can be consistently and effectively used by staff, applicants and grantees. Develop transparency policies that promote information sharing that can be readily implemented and convenient for interested parties.” The Workgroup has been meeting throughout the year and is already developing new ways to share information about the agency and the results of its funded projects.

The convening of the Knowledge and Transparency Workgroup is consistent with the agency’s 2012-2016 Strategic Plan. Specifically, under Goal # 5 (Model Public Agency), it states the agency will “Promote greater transparency and accountability of IMLS operations.”