

Report of Proactive Disclosure Subcommittee

Meeting of the
FOIA Advisory Committee
Washington DC
October 21, 2014

FOIA requires agencies to proactively disclose certain information.

1. Publication in Federal Register per sec. (a)(1)
 - Description of agency's organization
 - Requirements to which public is subject (e.g., regulations, forms)
 - Agencies meet requirement through U.S. Gov't Manual, publication in FR, incorporation by reference in FR notices, etc.

FOIA requires agencies to proactively disclose certain information.

2. (Electronic) Reading Room or publish & sell, sec. (a)(2)
 - Opinions and orders adjudicating cases
 - Statements of policy adopted but not published in FR
 - Administrative staff manuals and instructions to staff that affect a member of the public
 - Records already released under FOIA which are likely to be subject of subsequent requests
 - Index to all of the above

Guidance encourages more proactive disclosure.

- “...agencies should take affirmative steps to make information public. They should not wait for specific requests from the public.” – President’s memorandum of Jan. 21, 2009
- “...agencies should readily and systematically post information online in advance of any public request.” – Attorney General’s memorandum of Mar. 19, 2009

DATA Act

- Builds on USASpending.gov disclosures about grants, contract awards and loans
- Adds data about budget, commitments & expenditures, reprogramming, and fund balances
- Requires:
 - Bulk download, machine readability
 - Development and use of common terms, formats & definitions for key financial data elements
 - GAO and IG audits of info posted

Benefits of Standardizing Proactive Disclosures

- Better governance
- Savings to agency from reduction in “reactive” FOIAs
- Business use of information: Increased productivity and employment
- Focused gov’t employee time on non-standard, non-repeatable requests

Reactive “whack-a-mole” FOIA burdens agencies.

Agency	Requests Received in FY 2012	Percent of Requests Labeled Simple	Reported FOIA Staff (FTEs)	Case Load (Requests per reported staff)
Department of Homeland Security	190,589	38%	398	479
Department of Justice	69,456	75%	529	131
Department of Health and Human Services	68,467	83%	291	235
Department of Defense	66,078	63%	719	92
Social Security Administration	31,329	99%	77	407
Department of Veterans Affairs	24,423	47%	227	108
Department of Agriculture	22,175	92%	260	85
Equal Employment Opportunity Commission	18,726	92%	37	505
Department of Labor	18,560	48%	162	115
Department of State	18,521	38%	155	120
Department of the Treasury	16,610	15%	119	139
National Archives and Records Administration	13,345	88%	36	371
Securities and Exchange Commission	11,292	100%	37	307
Department of Transportation	10,946	75%	109	100
Environmental Protection Agency	9,689	46%	128	76

Proactive Disclosure Subcommittee Theory

- Within each agency there are types of records that comprise a large share of FOIAs
- Across agencies there are types of requestors (i.e. personas) that generate a large share of FOIAs
- If the records can be clustered into primary categories for each agency, proactively disclosing that type of record has high potential for cost savings and benefits
- If the key personas can be identified across agencies, the needs of those requestors can be defined and met proactively

Proactive Disclosure Subcommittee Challenges

- Despite significant effort, we have not found a breakdown of any Federal agency's FOIAs by type of record, type of request, or type of requestor
- Can we obtain FOIA logs with sufficient description to identify type of record for each request?
- Can we obtain actual requests to analyze? (We can from NRC, but it's not representative.)
- Would we need analysts to determine type of record for each request, or can we automate that?
- Are there pilot agencies represented on the FOIA Committee who would be willing to pilot this with us?



Reinvent Albany

Listening to FOIL

Using FOIL Logs to Guide the Publication of Open Data

An Analysis of the 2013 FOIL Logs of the NYS
Department of Environmental Conservation

July 23, 2014

- Analysis of FOIL log from NY State Dept. of Environmental Conservation
- 55% of requests were for a few types of reports about particular addresses:
 - Spill incident reports
 - Petroleum storage reports
 - Soil and water remediation and inspection records
 - Air quality reports
 - Landfill reports
- Frequent requestors said they would be very happy to get the data from web instead of requesting.

Example: Single Audit Act

- Entity that receives \$500,000 in Federal grants must send financial statement, management discussion, auditor's opinion, and details of grants.
- At least one company wants to use this information for rating municipal bonds.
- In a test, all 4 reports FOIA'd were released unredacted, but required multiple follow-ups and 2 ½ months delay.
- New OMB rules call for reports after 2014 to be posted on single Federal web site.
- Submitters responsible for keeping PII out of reports.
- Exemption for information restricted by Federal statute or regulation, but FOIA exemptions are not applied.

We'd like additional Committee members to work on Proactive Disclosure

- Talk to us about what you'd like to do within your agency
- Provide a pilot dataset for us from your agency
- Help us with the cluster analysis

Thank You

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