

FOIA ADVISORY COMMITTEE FINAL REPORT AND RECOMMENDATIONS

OUTLINE

APRIL 30, 2020

- I. Executive Summary
- II. At-a-glance recommendations for Chief FOIA Officers [who may not have time to read the full report]
- III. Introduction
- IV. Recommendations to the Archivist of the United States

A. Background, authority, scope of work, etc.

B. RECOMMENDATIONS DIRECTED TO NARA-OGIS/DOJ-OIP:

Guidance and Training

- 1. **Records Management 1:** Archivist requests that OIP issue guidance re: including records management-related materials on agency websites and in FOIA handbooks. **Passed 3/5/2020.**
- 2. **Records Management 2:** Archivist directs NARA and requests OIP to offer Records Management (RM) training to FOIA officers/Public Liaisons. Also include a FOIA module in RM training courses for all federal employees. **Passed 3/5/2020.**
- 3. **Time/Volume 2:** Archivist requests that OIP collect information in Chief FOIA Officer reports regarding standard operating procedures (SOPs) for processing FOIA requests and the FOIA webpage. **Passed in Spirit 3/5/2020.**
- 4. **Time/Volume 3:** Archivist requests that OIP issue guidance requesting agencies provide annual mandatory FOIA training; directs OGIS and requests OIP to study agency FOIA training and content; and requests that OGIS ask Congress to provide line-item appropriation for agency FOIA training costs. **Passed in Spirit 3/5/2020.**
- 5. **Records Management 3:** Archivist requests that OIP provide best practice guidance on e-discovery tools to help w/ search. **Passed 3/5/2020.**
- 6. **Vision 2B:** Archivist directs OGIS and requests that OIP help agencies establish briefings for senior leaders during changes in leadership/administrations. **Under consideration.**
- 7. **Vision 2C:** Archivist directs OGIS and requests that OIP examine the FOIA performance measures used in their agency performance plans/reports (not individual performance plans). Further, that OGIS submit results of its assessment and any recommendations to Congress and the President. **Under consideration.**

Technology

8. **Records Management 4:** Archivist directs NARA to incorporate FOIA/public access into the Federal Records Electronic Modernization Initiative (FERMI). **Passed 3/5/2020.**
9. **Records Management 6:** Archivist directs NARA and requests OIP to each establish a liaison with the Chief Data Officer Council to ensure FOIA has a voice. **Passed 3/5/2020.**
10. **Records Management 7:** Archivist/NARA works w/ government and industry in promoting research into using artificial intelligence to improve FOIA search and segregation. **Passed 3/5/2020.**
11. **Records Management 8:** Archivist requests that OGIS/OIP together encourage agencies to give access to FOIA-released records in central repository/ies and in standardized ways in addition to on agency websites. **Passed 3/5/2020.**
12. **Records Management 9:** Archivist requests OGIS/OIP together encourage agencies to release FOIA documents in both human-readable and machine-actionable formats to the extent feasible. **Passed 3/5/2020.**

C. TO AGENCIES:

Disclosure

1. **Time/Volume 6:** Archivist requests that agencies provide information on their websites to facilitate FOIA request filing (explanation of process, expected simple and complex wait times, contact info.) **Passed 3/5/2020.**
2. **Time/Volume 5:** Archivist requests that agencies should ensure that existing non-FOIA statutory provisions for information dissemination are robust and that commonly requested documents can be accessed securely online. **Passed in Spirit 3/5/2020.**

Process

3. **Time/Volume 4:** Archivist requests that agencies should identify common categories of frequently requested “first-party” records and seek to establish alternate processes for accessing records that are more efficient than FOIA. **Passed in Spirit 3/5/2020 (transcript unclear as to whether Committee members believed they voted for the recommendation in spirit).**
4. **Time/Volume 1:** Archivist requests that agencies review their technology and staffing needs to identify resources needed to respond to current FOIA needs and anticipated FOIA demands. Apply results to agency strategic plans. **Passed as Best Practice 3/5/2020.**

D. TO CHIEF FOIA OFFICERS COUNCIL:

1. **Vision 1:** Archivist requests that the Chief FOIA Officers Council (CFO) create a Committee to look into a cross-agency collaboration and innovation, including researching and proposing a grant program and other revenue resources for FOIA programs; to review and promote clear career trajectories for FOIA professionals; and explore models to align agency resources with transparency commitment. **Under consideration.**
2. **Vision 2A:** Archivist requests that the CFO Council recommend that agency leadership annually issue a memo reminding the workforce of its responsibilities and obligations under FOIA. **Under consideration.**

E. TO CIGIE:

1. **Records Management 5:** Archivist asks the chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) that it consider a cross-cutting priority area of how agencies are doing in providing FOIA access to agency records in electronic/digital form. **Passed 3/5/2020.**

F. TO CONGRESS:

1. **Vision 3A:** That Congress engage in more regular and robust oversight of FOIA and provide clearer authority and expanded resources to OGIS. **Under consideration.**
2. **Vision 3B:** That Congress fund FOIA to allow agencies to meet legal obligations. **Under consideration.**
3. **Vision 3C:** That Congress expand FOIA to the legislative and judicial branches. **Under consideration.**

G. A LOOK TO THE FUTURE:

1. **Vision 4:** Archivist should take a leadership role in aligning evolving federal data strategy policies with existing FOIA and Federal Records Act statutory frameworks. **Under consideration.**

- V. Subcommittee/Committee Methodology
- VI. Appendices [including Records Management Subcommittee Appendix A “E-discovery Best Practices Checklist for Use in Responding to FOIA Requests”]
- VII. List of Committee Members
 - A. Current members
 - B. Past members (2018-2020 term)

- VIII. Acknowledgements, to include speakers at meetings during the 2018-2020 term
- IX. Glossary
- X. Charter