



OFFICE *of* GOVERNMENT
INFORMATION SERVICES

Freedom of Information Act Advisory Committee

September 5, 2019



Past FOIA Advisory Committee Recommendations Update

Martha W. Murphy

Deputy Director

Office of Government Information Services



Best Practices





Recommendations Summary

- 1 – Establish CFO Technology Subcommittee **COMPLETE**
- 2 – Use CFO report to collect information on agency efforts to leverage technology **COMPLETE**
- 3 – Suggest modification of the FAR
- 4 – Launch effort to establish requirements for FOIA processing tools (508 compliance)
- 5 – OGIS assessment re. preparing documents for posting
- 6 – OGIS include recommendation re. proactive disclosure/508 compliance in report to Congress **COMPLETE**
- 7 – Examine the use of FOIA performance standards and send recommendation to Congress and the President
- 8 – Archivist recommend to OMB that it update FOIA fee guidance **COMPLETE**



Recommendation #2

Request that OIP collect detailed information, as part of each agency's CFO Report, regarding the specific methods & technologies agencies are using to search their electronic records, including email. Potential topics to be covered include agencies' procurement of technology, ability to search email, acquisition of e-discovery tools, & availability of information on agencies' websites that helps requesters understand the agencies' record keeping systems & be better able to submit targeted requests.

Complete – Question was included in the CFO report

*Update:
OGIS published an Assessment on Leveraging Technology to Improve FOIA Searches on July 31, 2019.*



Recommendation #3

Suggest a modification to the Federal Acquisition Regulation (FAR) to require all agencies, when acquiring electronic records management software, electronic mail software, & other records-related information technology, to consider features that will help facilitate the agencies' responsibilities under FOIA to provide access to Federal agency records.

OGIS is working with NARA's FAR Council Representative & NARA's General Counsel staff to draft a business case to submit to the FAR

Update:

OGIS is meeting with NARA's FAR Council Representative tomorrow. We hope to finalize the business case to be presented to the Council.



Recommendation #1

Propose that the Chief FOIA Officers (CFO) Council seek to establish a technology subcommittee, in partnership with the CIO Council, to study the utilization & deployment of FOIA technology across agencies & identify best practices & recommendations that can be implemented across agencies.

Complete - CFO Technology Subcommittee has been established.

Update:

- *The Technology Subcommittee presented before the Chief FOIA Officers Council in August and will be presenting here today.*



CFO Technology Subcommittee

Eric F. Stein

U.S. Department of State

Michael Sarich

Veterans Health Administration



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Chris Knox

Subcommittee Co-Chairperson



Emily Creighton and Bradley White Subcommittee Co-Chairpersons



Records Management Subcommittee Report

Jason R. Baron and Ryan Law
Subcommittee Co-Chairpersons

**2018-2020 FOIA Advisory Committee
Records Management Subcommittee
Proposed Recommendations
September 5, 2019**

Records Management Subcommittee Recommendation #1

We recommend that the Archivist of United States request that the Department of Justice, Office of Information Policy (DOJ/OIP), issue guidance to require agencies to include records management-related materials as part of agency websites and FOIA handbooks maintained pursuant to FOIA.

Records Management Subcommittee Recommendation #2

We recommend that the Archivist of the United States direct NARA and request that DOJ/OIP offer targeted training in selected topics in Federal records management to FOIA officers and FOIA Public Liaisons in Federal agencies, and otherwise include a FOIA module in selected records management training courses open to all Federal employees.

Records Management Subcommittee Recommendation #3

We recommend that the Archivist of the United States request that the Department of Justice, Office of Information Policy (DOJ/OIP), provide further best practice guidance on what constitutes for FOIA purposes an “adequate search” of agency records managed in electronic form, including but not limited to email in Capstone repositories.

Records Management Subcommittee Recommendation #4

We recommend that as part of the Federal Electronic Records Modernization Initiative (FERMI), the Archivist of the United States direct NARA to incorporate and further develop the idea of public access to Federal records, including through FOIA.

Records Management Subcommittee Recommendation #5

We recommend that the Archivist of the United States make a formal request to the Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) that CIGIE consider designating as a cross-cutting project or priority area the issue of how agencies are doing in providing FOIA access to agency records in electronic or digital form.

Records Management Subcommittee Recommendation #6

We recommend that the Archivist of the United States direct NARA and request that DOJ/OIP each establish a liaison with the newly created Chief Data Officer (CDO) Council, for the purpose of ensuring that CDO officials understand the importance of Federal recordkeeping and FOIA requirements and how such laws apply to the maintenance of data within agencies.

Records Management Subcommittee Recommendation #7

We recommend that the Archivist of the United States work with other governmental components and industry in promoting research into using artificial intelligence (AI), including machine learning technologies, to (i) improve the ability to search through government electronic record repositories for responsive records, and (ii) segregate sensitive material in government records, including but not limited to material otherwise within the scope of the nine FOIA exemptions.



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