



OFFICE of GOVERNMENT INFORMATION SERVICES

November 29, 2016—sent via email

Tracey L. Showman
Chief Administrative Officer
Federal Emergency Management Agency
500 C Street S.W.
Washington, D.C. 20472

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Dear Ms. Showman:

This letter is in reference to your November 14, 2016 response to Office of Government Information Services (OGIS) recommendations for improving the Federal Emergency Management Agency (FEMA) administration of the Freedom of Information Act (FOIA).

We appreciate your thorough response to our September 2015 recommendations and thank you again for participating in OGIS's agency compliance assessment program. FEMA has taken a number of important steps to strengthen its FOIA program and improve compliance with the statute. We have reviewed your responses and, as indicated in the attached form, we consider all 16 of OGIS's recommendations for the FEMA FOIA program to be closed.

If you have any questions, please do not hesitate to contact Kirsten Mitchell at 202-741-5775 or at kirsten.mitchell@nara.gov.

Sincerely,

NIKKI GRAMIAN
Acting Director

cc: Jonathan Cantor, Acting Chief FOIA Officer, Department of Homeland Security (DHS)

James Holzer, Deputy Chief FOIA Officer, DHS
William Holzerland, Chief, Disclosure Branch, FEMA

Enclosure



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FREEDOM OF INFORMATION ACT COMPLIANCE ASSESSMENTS**

Federal Emergency Management Agency: September 2015		
Recommendation	Agency Response	Status
Track volume of records processed and use volume as a management and oversight tool.	FEMA now uses FOIAXpress to track the volume of records processed, and will use this information as a management and quality-control oversight tool. This data is reported to Agency leadership weekly to highlight the FOIA workload in a more comprehensive manner.	Closed
Create a triage process that queues complex and simple requests based on the number of responsive pages or the topic of the request.	FEMA is using FOIAXpress reports to assign cases by age, topic, multi-track type, and page count. Each FEMA Disclosure Program analyst is assigned a combination of simple and complex cases to ensure that all cases are processed in a timely manner.	Closed
Consider reinstating a memorandum of understanding with the United States Coast Guard Administrative Law Judge program to process FOIA Appeals.	Due to the cost associated with this option, FEMA non-concurs and instead opted to hire additional personnel to process appeals in conjunction with FEMA's Office of Chief Counsel, in an effort to create a "cradle-to-grave" process within the FEMA Disclosure Program. Additionally, FEMA is partnering with the DHS Disclosure Office to take part of this workload for processing. Also, FEMA has an embedded DHS Disclosure Office resource detailed to focus on structuring and prioritizing the work of the Program to further reduce the backlog, including appeals.	Closed
Discuss with FEMA leadership and DHS Privacy Office staffing challenges during disaster responses and create a contingency plan for meeting those challenges.	FEMA is in the process of creating a contingency plan that augments the FEMA Disclosure Program's staff during major disasters by staggering deployments, using only the CORE employees during the initial deployment, and then initiating any additional Permanent Full-Time (PFT) deployments to ensure constant coverage within the FEMA Disclosure Program.	Closed

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<p>Expand training opportunities to include more Department of Justice workshops and conferences, seminars, and trainings by other agencies, professional organizations, educational institutions, and non-profit organizations; a particular emphasis should be on the Attorney General Guidelines for FOIA, specifically the harm analysis for Exemption 5.</p>	<p>All FEMA Disclosure Program analysts completed disclosure refresher training through the DOJ, Office of information Policy's training curriculum and associated disclosure processes. Additionally, the Chief Administrative Officer encouraged FEMA Disclosure Program analysts to utilize their training budget to seek training and development in other ways to professionalize their skills as analysts and that all of this be codified in the employee's Individual Developmental Plan.</p>	<p>Closed</p>
<p>Improve records management practices in regard to storage of FOIA documents and ensure the agency has a complete administrative record for each FOIA case.</p>	<p>All Disclosure analysts completed records management training. In addition, FEMA is using only one FOIA tracking system (FOIAXpress) for Disclosure records. All communications, written or oral, with external stakeholders are managed in the tracking system. Spot checks are conducted by the FEMA Disclosure Program Chief and Section Chiefs to ensure the process is being followed.</p>	<p>Closed</p>

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Use technology to track volume of records processed.	FEMA is utilizing FOIAXpress to track volume of records processed and reports this information to Agency leadership weekly.	Closed
Overhaul the agency's FOIA website to help reduce the office's administrative burden and increase requester knowledge about FOIA.	FEMA is in in the process of overhauling the internal and external FEMA Disclosure Program website to explain various ways to submit disclosure requests for records. Additionally, the OpenFEMA Initiative and Data Visualization web pages already provide operational and mission data to the public and reduce mission-specific FOIA requests.	Closed
Create a policy or procedure to regularly identify records to be posted on the FEMA FOIA website.	FEMA is developing a new Disclosure Program Directive and Manual that will integrate the process for proactive disclosures.	Closed
Consider streamlining contractor notice procedures to make FOIA processing of contracts more efficient.	FEMA is streamlining contractor notice procedures to make FOIA processing of contracts more efficient by adopting the DOJ guidance on contractor notices.	Closed
Engage FEMA leadership to consider proactively releasing contracts and/or finding ways to identify possible exempt information in contracts before a request comes in.	The FEMA Disclosure Program is partnering with the Office of Chief Procurement Officer to determine standard exempt and releasable information contained in contracts.	Closed

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<p>Discuss with DHS Privacy Office how records can be processed and released in their native formats using the existing case management software.</p>	<p>FEMA is working with the DHS Privacy Office to learn how records can be processed and released in their native formats using existing case management software. The FEMA Disclosure Program is researching "best practices" with the DHS Privacy Office to preserve the file format.</p>	<p>Closed</p>
<p>Provide requesters with an estimated date of completion based on FEMA's annual statistics.</p>	<p>FEMA's new acknowledgement letter template provides a website that allows requesters to track the status of their requests, to include an estimated response date.</p>	<p>Closed</p>
<p>Communicate regularly with requesters to update them on estimated date of completion, status in queue, and ask for changes in address (if applicable).</p>	<p>FEMA included information in the FEMA Disclosure Program Directive and Manual to call requester on a quarterly basis to discuss the status of their requests.</p>	<p>Closed</p>
<p>Include a description of the request and provide the tracking website link in acknowledgement letters.</p>	<p>FEMA's Disclosure Program has updated the acknowledgement letter template to include this information. FEMA revised the final response template to include appeal rights when the request is "granted in full."</p>	<p>Closed</p>

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<p>Revise final response template to include appeal rights when request is granted in full, remove Code of Federal Regulations (CFR) references, edit descriptions of regulations so they are in plain language, and include search terms when applicable.</p>	<p>FEMA's Disclosure Program has updated the acknowledgement letter template to include this information. FEMA revised the final response template to include appeal rights when the request is "granted in full."</p>	<p>Closed</p>
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