

To: FOIA Advisory Committee
From: Proactive Disclosure Subcommittee
Re: Proposed recommendation for agency proactive disclosure priorities
Date: 10/23/17

This proposal outlines a possible recommendation that agencies prioritize for publication in their reading rooms certain categories of records that are relatively easy for agencies to disclose and which are of high value to the public in government oversight.

I. Methodology

The subcommittee began the development of this list by compiling records or categories of records that had previously been suggested as potential targets for proactive disclosure. These recommendations largely came from documents prepared by civil society organizations over the last few years. The subcommittee also asked that OGIS solicit suggestions from the public regarding potential proactive disclosure targets; OGIS solicited this input via a [blog post](#), which was shared on social media and on various list serves.

In order to help the subcommittee make more informed decisions about what records or categories of records to include on its list of targets, subcommittee members were asked to rate each potential item according to the ease of posting the record (Ease) and the importance of the record to improving public understanding of the government's actions (Importance). Subcommittee members entered individual ratings for Ease and Importance. Subcommittee members could also leave the rating space blank if they did not feel that they had enough information to rate the item, and were given space to enter comments about a particular item.

The subcommittee then discussed each item on the proposed list. The subcommittee agreed to focus on those recommendations that were transsubstantive insofar as they would apply to many different agencies across the federal government, and that were of higher ease and importance. Where it improved ease and importance, the subcommittee narrowed or adjusted the proposed category. Section II represents the consensus list for proposed targeted affirmative disclosure. Section III represents additional items that the subcommittee agreed to put to the full committee for its consideration for inclusion.

II. Priority List for Proactive Disclosure

Agencies should prioritize for proactive disclosure the following items:

- A. Materials that are related to the operations and establishment of FACA committees, including, for example, coming events; timelines of work being done; meeting agendas, minutes, transcripts, and recordings if available; names and biographies of FACA committee members as well as any conflict of interest waivers, committee charter and description of the committee's purpose and activities.

Note: While the subcommittee recognizes certain materials are already subject to legal disclosure obligations, the subcommittee feels the full range of FACA committee materials should be proactively disclosed because those materials already must be released upon request and serve an important oversight role.

- B. All unclassified reports agencies provide to Congress, with any necessary privacy redactions, and all testimony submitted to Congress. Where a report must be withheld for classification or privacy, at the very least the title should be provided.
- C. Employee directories and contact information including email addresses. If for any reason an agency is overburdened by this requirement, a minimum of a phone directory should be provided.
- D. Proposed records schedules.
- E. Records that are frequently requested under FOIA.

Note: The subcommittee recognizes that FOIA already requires records requested three or more times to be published in the electronic reading room, but urges agencies to recommit to that goal with the view that it will also be resource-saving for the agency.

- F. Statements of administration policy and enrolled bill memoranda
- G. Documentation of lobbying activities, such as LLL forms.
- H. FOIA Logs

Note: The subcommittee has submitted a separate, detailed proposal about this item, but cross references that proposal here.

- I. Calendars of top officials (e.g. Secretary, Deputy Secretary, Assistant Secretary) within one month, subject to privacy and security redactions.
- J. The **top ten** contracts, task orders, and grants as measured by dollar value, and all contracts, task orders, and grants that are valued more than **\$100M**.

Note: The subcommittee seeks input on this item. Subcommittee members have discussed a range of options, including replacing “ten” with “twenty-five” and “\$100M with \$25M” in the current proposal, and limiting the suggesting to all contracts over “\$25M,” “\$50M,” or \$100M.”

- K. To the greatest extent possible, declassified material. For example, the subcommittee suggests that the Department of State make it a priority to highlight newly declassified material that was withheld from volumes of the Foreign Relations Series of the United States.

III. Additional Items for Full Committee Consideration

The subcommittee did not come to a decision on whether to make recommendations about the following categories of records, but requests the full committee's input.

- A. Congressional budget justifications for current and past years
- B. List of all OLC opinions and text of opinions
- C. Agency visitor logs