CHIEF FOIA OFFICER'S REPORT

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

March 16, 2015

This report has been prepared by Nancy E. Weiss, IMLS's General Counsel and Chief FOIA Officer, in compliance with the "Guidelines for 2015 Chief FOIA Officer Reports" published by the Department of Justice Office of Information Policy. Questions concerning this report can be addressed to my attention by phone at 202-653-4640 or by e-mail at nweiss@imls.gov.

IMLS's 2015 Chief FOIA Officer Report addresses the agency's activities that have occurred since the filing of last year's Report, which was March 14, 2014, up until the filing of the 2015 Report.

INTRODUCTION

The Institute of Museum and Library ("IMLS" or the "Institute") recognizes that the Freedom of Information Act (FOIA) is a fundamental element of Open Government. By applying a presumption of openness and maintaining effective FOIA operations, IMLS seeks to expand the availability of information about the agency's programs and operations to the public. The following report describes the steps taken by IMLS to implement FOIA during the reporting period.

Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training:

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes. IMLS personnel regularly participate in available training opportunities. For example, the agency's Chief FOIA Officer and FOIA Liaison attended DOJ sponsored FOIA training in 2014. In addition, the Institute's FOIA representatives routinely conduct informal FOIA training and information briefings with agency managers and staff members. For example, throughout 2014, the Institute's FOIA Representatives hosted Open Government Working Group Meetings and trained staff on the need to ensure transparency and openness in agency processes and operations, and the letter and spirit of the FOIA obligations. Participants in this group (in addition to IMLS FOIA Representatives) include the Chief Operating Officer, the Chief Information Officer/Records Officer, the Director of the Office of Planning, Research and Evaluation, and the Director of the Office of Communications and Government Affairs. FOIA Representatives also briefed agency staff on how the agency was meeting the President and Attorney General's goals of transparency and the presumption of openness as identified in DOJ's annual FOIA report survey.

FOIA training material, including information regarding how to respond to a FOIA request, is also posted on the agency's internal Intranet site and made available to all IMLS staff.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100%.

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

In its 2014 Chief FOIA Office Report, the Institute set forth a plan to ensure that substantive and timely FOIA training is made available to all FOIA professionals throughout the year. As described above, the agency has implemented the plan it established. In 2014, in addition to the informal agency FOIA training that is routinely conducted, the Chief FOIA Officer monitored FOIA training opportunities offered throughout the government and by outside organizations, and provided relevant information on such training opportunities to all agency FOIA professionals. The agency continued to implement a new electronic learning management system, which has the capability of helping to facilitate the FOIA training process and enable the Chief FOIA Officer to monitor the training progress of agency FOIA professionals.

Discretionary Releases:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

Yes. IMLS FOIA Representatives review all records that are responsive to a particular FOIA request. When there is a possibility for making a discretionary release, FOIA Representatives consult regularly with the agency's General Counsel/Chief FOIA Officer. In addition, the agency's FOIA, Open Government staff and program managers meet regularly to identify and discuss proactive release of agency records pursuant to the FOIA and Open Government Act. This topic is also frequently discussed at the agency's bi-weekly Open Government Working Group meetings.

5. During the reporting period, did your agency make any discretionary releases of information?

Yes.

6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance on implementing the President's and Attorney General's FOIA Memoranda.

The information released as a matter of agency discretion would have been covered under Exemption 5.

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Throughout the year, the agency's Chief FOIA Officer works with program managers and agency FOIA Representatives to ensure that barriers that would hinder transparency and openness within the agency's programs, processes and procedures are adequately addressed or alleviated altogether. The agency is committed to making discretionary releases that will not result in foreseeable harm to the agency's clients, employees, programs, or operations. This year, IMLS has released as a matter of discretion limited amounts of pre-decisional agency information. The decision to disclose such information was made, in each case, after a careful analysis of the information, and weighing of the agency's responsibility to prevent "foreseeable harm" to interested parties, as articulated in the Attorney General's Memorandum.

8. If your agency was not able to make any discretionary releases of information, please explain why.

N/A.

Other Initiatives:

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Transparency, participation, and collaboration form the cornerstone of an open government. These principles are critical to the IMLS mission. We have built a strong foundation of openness policies and practices that guide our daily activities and are part of President Obama's government-wide initiative to promote openness in the work of federal agencies. This past year we have undertaken a number of efforts to unlock the power of government data to spur innovation and improve the quality of our services. Specifically, our IMLS Open Government Plan was developed after consultation with agency stakeholders, and it highlights the agency's efforts toward greater transparency. Recent accomplishments under the agency's new plan include: (1) completion of an agency-wide inventory of data holdings, (2) increasing the number of publicly available datasets, and (3) updating grant policies to continue to ensure that data from federally funded research is made publicly available.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

Processing Procedures:

1. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

The agency did not adjudicate any requests for expedited processing during 2014.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A.

Requester Services:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, "Notifying Requesters of the Mediation Services Offered by OGIS." (July 9, 2010)

Yes. As appropriate, IMLS advises requesters that the 2007 FOIA amendments created the Office of Government Information Services to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013)

During the reporting period, the agency did not assess fees to any FOIA requesters. However, the agency's current FOIA fee schedule is outlined in the IMLS FOIA regulations at 45 CFR § 1184.

5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See id

N/A.

Other Initiatives:

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

This year, IMLS updated its internal FOIA policies and procedures in light of its adoption of new FOIA regulations. The policies and procedures establish guidelines for making agency records available to the public pursuant to FOIA, and incorporate a presumption in favor of openness. The guidelines apply to all IMLS staff that receive, distribute, control, or respond to requests from the public under FOIA.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

Yes. Information sharing is a key agency priority. Indeed, promoting greater transparency and accountability of IMLS operations is one of the agency's primary objectives. See Strategic Plan 2012-2016, "Creating a Nation of Learners." http://www.imls.gov/about/strategic_plan.aspx.

IMLS FOIA Representatives, the Chief Operating Officer, the Chief Information Officer/Records Officer, the Director of the Office of Planning, Research, and Evaluation, agency Open Government staff, and IMLS program managers routinely meet to ensure that the agency is identifying records for proactive disclosure. Indeed, this has been a priority for the agency's Open Government Working Group, which is tasked with responsibility for promoting the principles of open government throughout IMLS, including the fundamental principle that IMLS information and data is managed with the intention to promote openness and interoperability, while safeguarding agency systems and information as appropriate.

IMLS FOIA Representatives have also provided FOIA resources to inform the group's deliberations on the agency's Intranet site.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Yes. As described above, IMLS FOIA Representatives regularly and routinely collaborate with staff from each office in the agency to identify records for proactive disclosure.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

As part of the agency's commitment to proactive disclosure, IMLS FOIA Representatives and Open Government staff routinely analyze the agency's FOIA requests to determine if there are categories of records that are frequently requested, which can be proactively disclosed on the IMLS website.

4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

- The agency launched a new IMLS Data Catalog, which contains data about IMLS grants administration, agency administrative activities, and agency-collected statistical data about museums, libraries, and related organizations. The site can be used to search, filter, and export datasets and create and share visualizations, such as maps and charts without additional software.

- The agency also continued to update its Open Data page summarizing the agency's commitment to open data and information sharing. This page includes a link to IMLS's data listing which describes, in both human and machine-readable forms, all of the agency's datasets that can be made publicly available.

- In addition, data sets from the IMLS statistical program are updated annually in the DATA.GOV portal.

- The agency also continued to explore opportunities to increase public disclosure of information regarding the IMLS Grants to States Program. The agency has developed new State-level profiles containing data on the use of Grants to States funds by each state.

Other Initiatives:

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

IMLS staff, including the Office of Communications and Government Affairs, stay abreast of emerging issues of interest to agency stakeholders and work to make relevant information available to the public in a timely and transparent manner. In addition to posting information

on the IMLS website, the agency continues to expand its presence on social media platforms, including by posting information on the IMLS Facebook page, and Twitter page.

IMLS has undertaken efforts to further increase public access to information regarding the Grants to States Program. The agency is working on the development of a new State Programs Report (SPR) tool that will not only improve reporting from State grantees, but also will include a new public-facing website that will enable the public to access information about these grants. In addition, IMLS continues to explore opportunities to move certain Grants to State Program information from a password-protected extranet (which historically has been limited solely to grantees) to the agency's public website.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

Making Material Posted Online More Useful:

1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes.

2. If yes, please provide examples of such improvements.

The IMLS Digital Government Strategy aims to enable access to high-quality digital government information and services anywhere, anytime, on any device. IMLS has undertaken a number of steps to make the information it discloses online more useful to the public.

For example, in response to the President's Executive Order on Making Open and Machine Readable the New Default for Government, IMLS created the http://www.imls.gov/data webpage. We have also launched our new IMLS Data Catalog, which contains data about IMLS grants administration, agency administrative activities, and agency-collected statistical data about museums, libraries, and related organizations. The new Data Catalog was designed in order to make IMLS information more useful to the public. The site can be used to search, filter, and export datasets in a variety of file formats and create and share visualizations, such as maps and charts. The new Data Catalog allows the public to export the agency's datasets in nine different file formats (including CSV, JSON, PDF, RSS, and XLS).

In addition, the Data Catalog can be used to fuel apps and other data mash-ups through generated APIs.

Our developer page will provide information about our data and systems and promote the use of application programming interfaces (APIs).

Agency staff members have participated in several hackathons and will participate in the upcoming International Open Data Day at the World Bank in Washington, D.C. At these events, we receive feedback about our datasets and highlight the importance of public engagement, including working with the developer community.

IMLS held three convenings in 2014 with the goals of engaging its constituencies about how best libraries could work with their communities to maximize educational and economic opportunities. The first meeting examined national digital initiatives; the second meeting focused on learning spaces in libraries; and the last meeting looked at STEM learning. To ensure the greatest possible participation, IMLS livestreamed the meetings on the Internet, fostering discussion through in-person attendance and through social media such as Twitter. The events were recorded and the webcast archive is sustained online, along with copies of the agendas and notes from IMLS staff.

The agency has also initiated efforts to develop a standard format for final reports from all IMLS discretionary grant programs, with a goal of eventually making such reports publicly available. A standardized format will increase the usability and analysis of individual reports, and will support batch analysis of reports.

Finally, IMLS has begun an effort to redesign its main website, and as part of that effort, the agency reached out to key stakeholders to learn more about how they use the current website and the types of content and features of interest to them. The agency also invited input on the redesign from the public as a whole.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

No.

4. If so, please briefly explain what those challenges are.

N/A.

Other Initiatives:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Yes.

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.

N/A.

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications." (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

Yes. The agency communicates with FOIA requesters through use of the IMLS website and e-mails. In addition to e-mail, FOIA requesters can use the agency's on-line request form to submit FOIA requests to the agency.

Additionally, the IMLS FOIA Processor/Liaison regularly communicates with FOIA requesters to notify them of receipt of their request, obtain additional information (if applicable), and to forward responses and agency information which has been cleared for release by the IMLS FOIA Officer.

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See id.

N/A.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

Simple Track:

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Yes.

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

During the reporting period, 84.31% of all IMLS FOIA requests were placed on a simple track.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A.

Backlogs:

Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

Backlogged Requests

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

The agency did not have a backlog of FOIA requests at the close of Fiscal Years 2014 or 2013.

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."

N/A.

Backlogged Appeals

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

The agency did not have a backlog of appeals in Fiscal Years 2014 or 2013.

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

N/A.

Status of Ten Oldest Requests, Appeals, and Consultations:

Ten Oldest Requests

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Yes.

10. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A.

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

None.

Ten Oldest Appeals

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Yes. (The agency did not have any appeals pending at the end of Fiscal Year 2013).

13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A.

Ten Oldest Consultations

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Yes. (The agency did not have any consultations pending at the end of Fiscal Year 2013).

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A.

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

The agency was able to close all FOIA requests, appeals and consultations which were received or pending from 2013.

17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A.

18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.

N/A

Use of the FOIA's Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No.

Success Story

Out of all the activities undertaken by your agency since March 2014 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A

complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

The IMLS Data Catalog

- On February 18, 2015, IMLS officially launched its new data catalog site. This new resource puts IMLS data—comprising agency data about grants administration as well as agency-collected data about museums, libraries, and related organizations—at the fingertips of researchers, developers, and interested members of the public who want to dig deeper.

- The site can be used to: search, filter, and export datasets; create and share visualizations such as maps, charts and graphs without the need for additional software; develop internal reports and visualizations for program planning and evaluation; present data analysis completed by the IMLS Office of Planning, Research, and Evaluation in interactive web-based reports; and fuel apps and other data mash-ups through generated APIs.

- Moving forward, IMLS intends to further explore opportunities to continue to identify and expand access to high-value museum and library data.

- Before the catalog was publicly launched, IMLS soft-launched the site to a group of State Data Coordinators from across the country, an engaged set of stakeholders who were able to give us their early impressions of the site. IMLS created an additional public engagement opportunity, the Open Data Open House. This small workshop brought together researchers and digital library, museum and government professionals to: demonstrate the features of the new platform; share and answer questions about existing IMLS data; and brainstorm and generate ideas for potential projects around the use of this, and other, library and museum data.

- The Open Data Open House, and the official launch of the data catalog site, were timed to coincide with International Open Data Day on February 21, 2015.