

**INSTITUTE OF MUSEUM AND LIBRARY SERVICES
CHIEF FOIA OFFICER REPORT
2010**

I. Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

1. Describe below the steps your agency has taken to ensure that that presumption is being applied to all decisions involving the FOIA. This section should include a discussion of the range of steps taken by your agency to apply this presumption, from publicizing the President's FOIA Memorandum and Attorney General's FOIA Guidelines and providing training on them, to implementing the presumption in response to FOIA requests and administrative appeals, with examples or statistics illustrating your agency's action in making discretionary releases of records or partial releases when full disclosure is not possible.

The Institute of Museum and Library Services (IMLS or the "Institute") is committed to ensuring transparency in the work of the agency and maximum access to the agency's records. The President's Freedom of Information Act FOIA Memorandum's and Attorney General's FOIA Guidelines have been placed on the agency's website and all staff have been informed of current guidelines and the President's requirement that federal agencies, to the extent possible, proactively release public information. Pursuant to the Institute's overall mission which is to provide public access to learning and information resources, the agency's FOIA office and IMLS staff personnel have been trained on these Guidelines and are dedicated to providing public access of all releasable agency information in a timely manner. This fact is evident by the lack of full denials and the limited number of partial denials that have been reported on the Institute's Annual FOIA Report. In early 2010, IMLS established an Open-Government Task Force to continue to promote the value of transparency in its work. The Task Force is currently reviewing and updating the agency's website to enhance access to information and useful data.

2. Report whether your agency shows an increase in the number of requests where records have been released in full or where records have been released in part when compared with those numbers in the previous year's Annual FOIA Report.

The Institute is a small grant making agency that provides federal assistance to museums and libraries throughout the nation. In fiscal years 2008 and 2009, IMLS did not have any full denials. In fiscal years 2008 and 2009, the agency had 17 and 18 partial denials, respectively. In both years, however, partial denials accounted for fewer than 35% of the total number of requests received by the agency. Of the limited number of partial denials, more than 80% consisted of withholding information pursuant to 5 USC 552(b)(4) which protects commercial or financial information which is privileged and confidential and is therefore not appropriate for discretionary release.

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II. Steps Taken to Ensure that Your Agency has an Effective System 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.” Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

In order to ensure that the Attorney General’s guidelines were understood and fully implemented, during Fiscal Year 2009, the Institute’s Chief FOIA Officer met with key FOIA principals (FOIA Processor, FOIA Liaison, FOIA Officer, Program Managers and IT Support) to review the President and Attorney General’s Guidelines and to discuss the Institute’s current FOIA systems, processes, and policies. At the conclusion of the Chief FOIA Officer’s meeting, the following items were identified as next steps toward ensuring full compliance with the President’s FOIA Memorandum the Attorney General’s FOIA Guidelines:

- (1) Conduct a comprehensive review of the Institute’s FOIA operations (i.e., FOIA electronic system, IMLS FOIA staff processing, and IMLS FOIA policy and guidelines); and
- (2) Assess the current FOIA decision-making processes of key FOIA principals (i.e., FOIA Processor, FOIA Officer, FOIA Liaison, and Program Managers).

During December 2009 through February 2010, the Chief FOIA Officer held discussions on the results of the Institute’s comprehensive review and the following conclusions were formed as a result of the FOIA areas examined:

- (1) Of the primary methods of receiving FOIA related information (i.e., the Institute’s on-line FOIA Request Form, U.S. Mail, and e-mail), no changes are needed;
- (2) Of the institute’s primary means of recording, tracking, and maintaining FOIA requests received by the agency (i.e., Microsoft Access), technology upgrades were recommended and implemented to better align the FOIA database with new Annual FOIA Reporting requirements.
- (3) The Institute is updating its current FOIA policies and procedural guidelines to incorporate appropriate references from the President’s FOIA Memorandum the Attorney General’s FOIA Guidelines; and,
- (4) Key FOIA principals (i.e., FOIA Processor, FOIA Liaison, FOIA Officer, Program Managers and IT Support) have sufficient knowledge and understanding of the new FOIA regulations and are fully implementing the spirit and intent of the President’s FOIA Memorandum and the Attorney General’s FOIA Guidelines.

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In addition to the above, the Chief FOIA Officer reviewed the role of the agency's Information Technology resources with regard to the impact IT has on full implementation of the President's FOIA Memorandum the Attorney General's FOIA Guidelines. Based on that review, the agency determined that the quick response times and the professional working relationship between the agency's IT support staff and Key FOIA principals add to the effectiveness of the agency's electronic FOIA processes.

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. Describe here the steps your agency has taken to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines.

Consistent with Department of Justice requirements, the Institute's FOIA Reading Room was updated and certified in Fiscal Year 2009. IMLS posts on its website all releasable agency information that is identified to have wide-public applicability. Recently, as a result of the President's FOIA Memorandum, the Attorney General's FOIA Guidelines, and the Open Government Directive, the agency's Chief FOIA Officer, key FOIA principals and Senior Agency Management Officials met to discuss the proactive release of various other designated agency documents. Some specific examples of items already released by the agency pursuant to the Open Government Act can be found on the agency website at: <http://www.ims.gov/open/>. In addition, in accordance with the FOIA, Privacy Act, and the Institute's current regulations, the agency's FOIA Officers are continuing to review other records, submitted by agency program managers and staff, to determine the appropriateness of proactive release.

IV. Steps Taken To Greater Utilize Technology

A key component of the President's 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. For this section of the Chief FOIA Officer Report, please answer the following questions:

1. Does your agency currently receive requests electronically?

Yes. The Institute receives requests through its on-line "FOIA Request Form" and by e-mail.

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2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

N/A

3. Does your agency track requests electronically?

Yes. The institute uses a Microsoft Access database to track FOIA Requests. IMLS has determined that this database system is sufficient to handle the Institute's FOIA operations, based on the limited amount of annual FOIA requests received.

4. If not, what are the current impediments to your agency utilizing a system to track requests electronically.

N/A

5. Does your agency use technology to process requests.

Yes. The Institute uses its Microsoft Access database to generate and produce FOIA reports requested by the public. Additionally, to cut costs and reduce the time in providing information, whenever possible, the agency will scan documents or provide spreadsheets which can be sent to FOIA requestors electronically.

After careful review, however, the Institute has determined that the use of additional technology (i.e., commercial FOIA redaction and tracking software) would not be cost effective due to the limited amount of FOIA redactions required and FOIA requests received annually.

6. If not, what are the current impediments to your agency utilizing technology to process requests.

N/A

7. Does your agency utilize technology to prepare your agency Annual FOIA Report?

Yes. The Institute uses information contained in its Microsoft Access database to collect FOIA statistics needed to complete the Annual FOIA Report.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report.

N/A

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V. Steps Taken to Reduce Backlogs and Improve Timeliness in Responding to Requests

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs is an ongoing agency effort. Both the President and the Attorney General emphasized the importance of improving timeliness in responding to requests. Section XII of your Annual FOIA Report includes figures that show your agency's backlog of pending requests and administrative appeals for the previous fiscal year and for this current fiscal year. Your Chief FOIA Officer Report should address the following elements.

1. If you have a backlog, report here whether your backlog is decreasing. That reduction should be measured both in terms of the numbers of backlogged requests and administrative appeals that remain pending at the end of the fiscal year, and in terms of the age of those requests and appeals.

The Institute does not have a current backlog or pending administrative appeals.

2. If there has not been a reduction in the backlog describe why that has occurred and what steps your agency is taking to bring about a reduction.

N/A

3. Describe the steps your agency is taking to improve timeliness in responding to requests and to administrative appeals.

Though the Institute is committed to continual assessment and improvement of its overall FOIA operations, at this time, IMLS does not have any systemic problems in responding to its FOIA requestors in a timely manner. This determination is based on a comprehensive FOIA review and further supported by the data incorporated into the agency's Annual FOIA Report. Specifically, the Institute's Annual Report indicates the median and average number of days needed to process agency FOIA Requests is (12) and (13), respectively. These response times are well under the 20 day statutory requirement for responding. The lack of backlogs and administrative appeals provide further evidence that the chief priorities of the Institute's FOIA personnel are: proactive release; timely response; and public access to agency information.