

CHIEF FOIA OFFICER'S REPORT

INSTITUTE OF MUSEUM AND LIBRARY SERVICES (IMLS)

March 2016

This report has been prepared by Andrew Christopher, IMLS's Associate General Counsel and Acting Chief FOIA Officer, in compliance with the "Guidelines for 2016 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 202-653-4712 or by e-mail at achristopher@imls.gov.

IMLS's 2016 Chief FOIA Officer Report addresses the agency's activities that have occurred since the filing of last year's Report, which was March 16, 2015, up until the filing of the 2016 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 Acting Chief FOIA Officer, FOIA Liaison, and FOIA Processor participated in FOIA training in 2015. In addition, the Institute's FOIA representatives routinely conduct informal FOIA training and information briefings with agency managers and staff members. The Institute's FOIA Representatives routinely host Open Government Working Group Meetings; these meetings are designed to train staff and reinforce the need for transparency and openness in all agency processes and operations, and the letter and spirit of the FOIA obligations. Participants in this group (in addition to IMLS FOIA Representatives) include staff from throughout each office within the agency. 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 2015 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. OIP has directed agencies to “take steps to ensure that all of their FOIA Professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

As reported, 100% of the agency's FOIA Professional attended substantive FOIA training in 2015. The Chief FOIA Officer monitors the availability of FOIA training opportunities offered by government agencies and outside organizations, and provides relevant information on such training opportunities to all agency FOIA professionals. In addition to formal training, agency FOIA Representatives routinely conduct informal agency FOIA training.

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 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 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 2009 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, as a matter of discretion, IMLS released a limited amount of pre-decisional and deliberative agency information which could have been withheld pursuant to Exemption 5 of the FOIA. For example, information sought by an agency FOIA requester involved correspondence records which were generated between a State Library Administrative Agency (SLAA) and IMLS. After weighing the agency's responsibility to prevent "foreseeable harm" to all interested parties, as outlined in the Attorney General's Memorandum, and after consulting with the particular SLAA in question, the agency used its discretion to disclose the requested information.

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. In addition, as described more fully in Section III below, the agency has undertaken a number of initiatives to increase proactive disclosures of information of interest to the public. See, for example, IMLS's Data Catalog: <https://data.imls.gov/>.

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

The Attorney General 2009 FOIA Guidelines emphasized that, "[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 2015, 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 2015 Annual FOIA Report.

The agency did not adjudicate any requests for expedited processing during 2015.

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.

3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a “still interested” inquiry, it has done so in accordance with the new guidance for doing so, including affording requesters thirty working days to respond.

This agency has not had an occasion to send a “still interested” inquiry since implementation of the July 2, 2015, new OIP guidance.

Requester Services:

4. Agency FOIA Requester Service Center and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on the agency FOIA Requester Service Centers and the FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to resolve FOIA disputes.

IMLS FOIA requesters are routinely assisted by the IMLS Public Liaisons in resolving issues which may arise from time to time in the course of processing individual FOIA requests within the agency. In addition, as appropriate, IMLS FOIA requesters are notified that the Office of Government Information Services (OGIS) is available to offer mediation services and to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation.

Other Initiatives:

5. 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.

The Chief FOIA Officer works proactively with FOIA Representatives and the FOIA Public Liaisons to ensure that the FOIA system operates efficiently and effectively. As part of this consultative process, the Chief FOIA Officer routinely asks if any complaints or issues have been received from the public or the agency's internal staff regarding inefficiencies in FOIA processing times, functions, or the agency's release of information. During 2015, IMLS received no complaints from FOIA requesters and the agency's internal staff has worked both efficiently and effectively to ensure that all releasable agency documents are processed in a timely manner.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and Attorney General's FOIA memorandum 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. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.**

FOIA Representatives continually monitor the IMLS FOIA Logs for "frequently requested records." If "frequently requested" agency material or records are identified, that information is referred to the Open Government Working Group for review, discussion or appropriate authority to proactively disclose the information to the public. FOIA Representatives also regularly consult with the agency's program office staff to see if similarly requested agency records can or should be made available through the IMLS website. When appropriate, IMLS will also link FOIA requesters to SLAA or other Federal agency websites which may contain related information (i.e., Federal grants, contracts, etc.).

- 2. 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, agency research and evaluation staff, and IMLS program managers routinely meet to ensure that the agency is identifying records for proactive disclosure. This continues to be 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 also provide FOIA resources to inform such deliberations on the agency's Intranet site.

3. When making Proactive disclosures of records, are your agency's FOIA Professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

IMLS is committed to making its electronic and information technologies, including documents that are proactively disclosed, accessible to individuals with disabilities by meeting or exceeding the requirements of Section 508 of the Rehabilitation Act. The technical process for posting such records online is generally completed by the agency's staff in the Office of the Chief Information Officer and the Office of Communications and Government Affairs, but IMLS FOIA professionals collaborate, as appropriate, with such staff to improve the accessibility of IMLS records.

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

No.

5. If so, please briefly explain those challenges.

N/A.

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

- As part of the agency's announcement of a series of awards addressing the national digital platform priority in the National Leadership Grants for Libraries program, the IMLS proactively disclosed additional information about the funded projects, including the original preliminary proposal, the full proposal narrative, the schedule of completion, and the digital stewardship supplementary form. In consultation with the IMLS program offices and FOIA professionals, it was determined that the proactive disclosure of this information, would be beneficial to the public.
- The agency continued to update its [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.

7. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness, if yes, please describe those efforts.

Yes, the agency frequently uses a variety of communication tools to highlight important proactive disclosures for public awareness. For example, the agency published a blog post specifically highlighting the proactive disclosure of information regarding the projects being funded as part of a series of awards addressing the national digital platform priority in the National Leadership Grants for Libraries program. See <https://www.ims.gov/news-events/upnext-blog/2015/09/read-nine-new-national-digital-platform-project-narratives>. The agency also published a blog post highlighting the Open Data Open House that IMLS hosted as part of its efforts to highlight the launch of IMLS's new Data Catalog. See <https://www.ims.gov/news-events/upnext-blog/2015/03/continuing-library-and-museum-open-data-conversation>.

Other Initiatives:

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

As discussed more fully in the Success Story below, IMLS launched a newly redesigned website in 2015 that will facilitate increased proactive disclosure and accessibility of IMLS information.

In addition to posting material 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 is continuing 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, as described more fully in the Success Story below, IMLS launched a newly redesigned website that, among other things, is intended to help make the content on the website more useful to the public. As part of the planning efforts during the redesign process, the agency reached out to key stakeholders to learn more about how they used the IMLS 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. IMLS took this feedback from stakeholders directly into consideration when making design decisions for the new website.

IMLS continues to update the 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 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.

IMLS also hosted an Open Data Open House, in which IMLS staff interacted with a cohort of 30 data wonks, librarians, curators, researchers, developers, and representatives from a wide range of organizations to help explore and share ideas on how IMLS data could be used and how the data catalog could be improved.

IMLS held three convenings in 2015 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 the “National Digital Platform”; the second meeting focused on “Learning in Libraries”; and the last meeting looked at “Engaging Communities”. 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.

Other Initiatives:

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?

Yes.

4. 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 2016.

N/A.

5. 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/Public 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.

6. 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’s FOIA Memorandum and the Attorney General’s 2009 FOIA Guidelines 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 2015 Annual FOIA Report and, when applicable, your agency's 2014 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 2015, 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 2015 that were placed in your simple track.

During the reporting period, 75.8% 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 2014 and Fiscal Year 2015 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 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

The agency did not have a backlog of FOIA requests at the close of Fiscal Years 2015 or 2014.

6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- **An increase in the number of incoming requests.**
- **A loss of staff.**
- **An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.**
- **Any other reasons – please briefly describe or provide examples when possible.**

N/A.

7. 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 2015.

N/A.

Backlogged Appeals

8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

The agency did not have a backlog of appeals in Fiscal Years 2015 or 2014.

9. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- **An increase in the number of incoming requests.**
- **A loss of staff.**
- **An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.**
- **Any other reasons – please briefly describe or provide examples when possible.**

N/A.

10. 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 2015.

N/A.

Status of Ten Oldest Requests, Appeals, and Consultations:

Ten Oldest Requests

11. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes.

12. 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 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A.

13. 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

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes. (The agency did not have any appeals pending at the end of Fiscal Year 2014).

15. 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 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A.

Ten Oldest Consultations

16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes. (The agency did not have any consultations pending at the end of Fiscal Year 2014).

17. 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 2014

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:

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2014.

The agency was able to close all FOIA requests, appeals and/or consultations which were received or pending from 2014.

19. 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.

20. 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 2016.

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 2015?

No.

Success Story

Out of all the activities undertaken by your agency since March 2015 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.

IMLS Launches New Website

On September 23, 2015, IMLS launched its new redesigned agency website. See blog post: <https://www.imls.gov/news-events/upnext-blog/2015/09/welcome-new-imls-website>. In the initial stages of the redesign effort, and throughout every phase of the project, agency FOIA Representatives and the Open Government Team provided relevant input to ensure a renewed focus was placed on agency transparency and providing IMLS stakeholders with greater access to agency information. Specifically, members of the IMLS website redesign team:

- Solicited information and engaged IMLS stakeholders in providing the agency with feedback on how to maximize the overall usefulness of information contained on the website.
- Made the new website design mobile-friendly in an effort to be more responsive to the public and to take full advantage of the various ways IMLS stakeholders are using new technologies (including smartphones and tablets) to access news and information.
- Integrated the new website design with the IMLS Data Catalog to make IMLS data more useful to agency stakeholders and the general public.
- Ensured the new website design includes features that can be expanded to take future advantage of third party API's and modules, which can make IMLS information more accessible and useful for the public.