

DNFSB Chief FOIA Officer Report
Reporting Period March 2012-March 2013

Name and Title of Agency Chief FOIA Officer: Marcelyn Atwood, General Manager

Section 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.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Answer: No.

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

Answer: Yes.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

1. Did your agency make any discretionary releases of otherwise exempt information?

Answer: Not as this time.

2. What exemptions would have covered the information that was released as a matter of discretion?

Answer: Not applicable.

3. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

Answer: The Board has not released information as a matter of discretion.

4. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Answer: None at this time.

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."

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.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

Answer: Yes.

2. Do your FOIA professionals work with your agency's Open Government Team?

Answer: Yes.

3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?

Answer: Since the Board receives a small number of FOIA requests (nineteen in 2011 and twelve in 2012), there has not been a reason to hire additional staff.

4. Describe 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, streamlining consultations, eliminating redundancy, etc.

Answer: No other steps have been undertaken at this time.

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.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Provide examples of material that your agency has posted this past year.

Answer: As the public is now able to send FOIA requests directly to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page, the majority of requests received by the Board are electronic.

Our website was revised to list Announcements and Recent Board Activity for the public to view such as changes/additions to personnel, notice of Public Meetings, Federal Register notices, recommendations to the Secretary of Energy, and documents sent between the Department of Energy and the Board. Video streaming of current Board public meetings continue to be provided to the public on the website. The videos are available for ninety days following the meetings.

2. 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, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?

Answer: Yes.

3. If so, provide examples of such improvements.

Answer: The Board's redesigned public website was built using a standards-based content management system which allowed for significant improvements of the graphical design and site layout. The search engine was vastly improved, and the public can now electronically send information requests and feedback on the content and presentation of the posted material to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page.

4. Describe any other steps taken to increase proactive disclosures at your agency.

Answer: No other steps are being taken at this time.

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. In 2010 and 2011, agencies reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Answer: Yes, the public is now able to send FOIA requests directly to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page.

2. If your agency is decentralized, can FOIA requests be made electronically to all components of your agency?

Answer: No, but the turnaround to other agency components is within hours of receipt of the initial FOIA request.

Online tracking of FOIA requests:

1. Can a FOIA requester track the status of his/her request electronically?

Answer: Not at this time.

2. If not, is your agency taking steps to establish this capability?

Answer: The Board is comprised of fewer than 125 employees. Since the Board receives a small number of FOIA requests (nineteen in 2011 and twelve in 2012), we are able to respond to each FOIA request well within the twenty-day requirement for processing requests.

Use of technology to facilitate processing of requests:

1. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

Answer: Yes. The IT staff is currently holding meetings to discuss more advanced software to improve record search capabilities.

2. If so, describe the technological improvements being made.

Answer: The improvements are currently under review.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2012 Annual FOIA Report.*

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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

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

Answer: Yes.

2. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

Answer: Yes.

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

Answer: Not applicable.

Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E., entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.

1. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

Answer: The Board did not have a backlog of requests.

2. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

Answer: The Board did not have a backlog of appeals.

3. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

Answer: Not applicable.

4. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

Answer: Not applicable.

If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation.

Request Backlog:

1. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

Answer: Not applicable.

2. Was the lack of a reduction in the request backlog caused by a loss of staff?

Answer: Not applicable.

3. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Answer: Not applicable.

4. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Answer: Not applicable.

Administrative Appeal Backlog:

1. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

Answer: Not applicable.

2. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

Answer: Not applicable.

3. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

Answer: Not applicable.

4. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

Answer: Not applicable.

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

Answer: The Board has never had a backlog of requests.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

Answer: No.

2. If so, what is the total number of times exclusions were invoked?

Answer: Not applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

Since the Board's public website (located at <http://www.dnfsb.gov>) was completely redesigned in 2011, the site's layout and content make the information easier to access by the public. Additionally, the public is now able to send FOIA requests directly to the FOIA Information Officer from the [Board's Public Website](#) FOIA Reading Room page. Information requests such as press inquiries, technical questions, organizational and contact inquiries, etc. may also be requested online. Video streaming capabilities of current Board public meetings continue to be provided to the public.