Chief FOIA Officers Council

September 15, 2016
GSA Auditorium
Updates from OIP

• FOIA Improvement Act of 2016 Resources

• 2017 Chief FOIA Officer Report Guidelines

• Consolidated FOIA Portal
Guidance: New Requirements for FOIA Responses Letters

• **OIP Guidance** summarizes the new requirements for FOIA Response Letters, including:
  – Providing a 90-day appeal period
  – Notifications about services provided by FOIA Public Liaisons and OGIS

• **Implementation Checklist** includes sample language for response letters.
Updated Guidance for Agency FOIA Regulations

• Updates to guidance and accompanying template include:
  – Notifications to requesters for assistance from FOIA Public Liaisons and OGIS
  – 90-day minimum time period for administrative appeals
  – Procedures for dispute resolution
  – Limitations on assessing certain fees and exceptions

• Updates also reflect recent D.C. Circuit decisions pertaining to news media and educational institution requesters.
Additional Resources

• Updated text of the FOIA showing changes made by the FOIA Improvement Act of 2016

• OIP Summary of the FOIA Improvement Act and Training Slides

• Additional guidance forthcoming
2017 Chief FOIA Officer Report Guidelines

- **Report Guidelines** require agency CFOs to include steps taken to implement the five key areas addressed in DOJ’s FOIA Guidelines.

- Separate requirements for agencies depending on the number of FOIA requests received in Fiscal Year 2015. This year there are three categories:
  - Small: less than 50 requests
  - Medium: 50-1,000 requests
  - Large: more than 1,000 requests
Universal FOIA Portal

- DOJ will launch the first phase of a universal FOIA portal on FOIA.gov by the end of CY 2017.
- Development will occur iteratively in phases with the goal of adding various levels of functionality in addition to central request making capabilities.
Universal FOIA Portal

• Working with technology and digital service specialists to develop an application that is flexible, interoperable, and expandable.
  – Focused on open-source and cloud-hosted tools and informed by user research and feedback.

• Development is focused on seven top-level goals that will enhance the FOIA experience for both the public and agencies by making the process more efficient for each.
Universal FOIA Portal Goals

• Consolidated, multi-agency presence on FOIA.gov.
• Guided process to assist public in finding the right agency to which they should submit their request.
• Structured request forms for each agency.
• Online tracking for submitted requests.
• Search function for all federal websites and released FOIA documents.
• Ability of agencies to update their own content.
• Robust, online-based FOIA reporting tools.
Release to One is a Release to All: Agency Questionnaire

• OIP sent a questionnaire to all agencies seeking feedback on their ability to implement the policy beginning in January 2017.
• The questionnaire asked agencies to identify:
  – Feasible timing for implementation
  – Challenges not identified in the DOJ Pilot
  – The offices that will be involved in implementation
  – Any other categories of records (apart from first-party requests) that may not be appropriate for posting
Timing of Implementation

• We received responses from 61 agencies.
• 27 agencies indicated they can implement the policy within 60 days of January 1, 2017.
• Other agencies indicated that they would need more time, ranging from 90 days to a year or more to fully implement.
• Many agencies indicated that they would like a staggered implementation, such as on a quarterly or bimonthly basis.
Offices Involved in Implementation

- Agencies identified a range of offices that will be involved in implementing the policy, in addition to the FOIA office:
  - Office of Technology/Chief Information Officer
  - Public Affairs
  - Office of General Counsel
  - Policy and Program Offices
  - Personnel Office
  - Leadership Offices
Challenges

• Many agencies indicated they do not anticipate any additional challenges to implementation, and others reiterated the challenges identified in the DOJ’s Pilot.

• Additional challenges identified include:
  – Limited server space to post voluminous records
  – Appropriately prioritizing responding to new requests and posting records
  – Posting records in a manner that is useful for the public and does not lead to confusion
  – Logistical challenges for smaller offices and agencies that rely on other offices or contractors to post web content
Additional Exceptions

• First party requests are already excluded from the policy.
• Agencies identified other categories of records that may not be appropriate to post:
  – Records that are exceptionally time consuming to make 508 compliant
  – Certain investigative records
  – Records of deceased individuals
  – Salary information about agency employees
  – Confidential business information released to submitters
  – Scientific grant applications and proposals
Reporters Committee for Freedom of the Press Survey Findings

• RCFP conducted a survey of journalists on the “release to one is a release to all” policy and recently published the results.

• RCFP’s Director of Litigation will provide an overview of the survey and findings.
“Release to One is a Release to All”
Journalists Feedback and Discussion
Open time for members of the public to address the Council