Public Meeting
Wednesday November 17, 2021
10:00 am - 12:30 pm
Alina M. Semo and Bobak Talebian
Co-Chairs
WELCOME - HOUSEKEEPING

Chat to “All Panelists” to ensure your comments are seen by our moderators
WELCOMING REMARKS

David S. Ferriero, Archivist of the United States

Vanita Gupta, Associate Attorney General
UPDATES FROM
U.S. DEPARTMENT OF JUSTICE - OFFICE OF INFORMATION POLICY (OIP)
OIP Updates

- Reporting Requirements
- Guidance for Further Improvement
- Ex. 5 Guidance
- FOIA.gov Interoperability Requirements
- Forthcoming Resources
Fiscal Year 2021 Annual FOIA Report

- **Annual FOIA Report Deadlines**
  - **November 15, 2021** - Agencies required to submit their Fiscal Year 2021 Annual FOIA Report to OIP for review and clearance through [FOIA.gov](https://www.FOIA.gov).
  - **March 1, 2022** - Agencies required to post the final human readable and NIEM-XML versions of their Fiscal Year 2021 Annual FOIA Report on their websites.

2022 Chief FOIA Officer Report Guidelines

- Chief FOIA Officer Report Deadlines

- **January 10, 2022** - Agencies receiving more than 50 requests must submit their reports to OIP for review.

- **February 11, 2022** - Agencies receiving 50 requests or less that choose to report should provide their reports to OIP for review.

- **March 14, 2022** - All agency Chief FOIA Officer Reports should be posted online in final form.
The Guidelines focus on five key areas of FOIA Administration:

- Applying the Presumption of Openness
- Ensuring there are Effective Systems for Responding to Requests
- Increasing Proactive Disclosures
- Increasing the Utilization of Technology
- Improving Timeliness and Reducing any Backlogs
The **2022 Guidelines** include new or modified questions on:

- Federal Records Management Training
- Requester Outreach
- Senior Leader Awareness of FOIA Obligations
- Standard Operating Procedures
- Frequent First-Party Requests and Alternative Access
- Use of Technology
- FOIA-related Staffing Capabilities
- Identification, Tracking, and Posting of (a)(2) Proactive Disclosures
- Dissemination of Common Types of Material Outside of FOIA
- Impact of COVID-19 on Agency Backlog
- Development and Execution of Backlog Reduction Plans
OIP recently issued updated quarterly report guidance.

Guidance provides that Agency Managers now submit their Quarterly Report data directly into FOIA.gov.

Overall data points and deadlines remain the same.
Updated FOIA.gov Quarterly Data Page

- Quarterly Report data page updated similarly to Annual Report data.

- Moving forward, historical quarterly data will be available.
Guidance for Improvement Based on 2021 CFO Report Review and Assessment

Accompanying the Summary and Assessment is OIP’s Guidance for Further Improvement:

- Highlights the importance of FOIA training for FOIA professionals and agency program personnel.
- Encourages agencies to plan ahead and leverage lessons learned to reduce backlogs and processing times.
- Emphasizes importance of updating Standard Operating Procedures.
- Encourages all agencies that have not updated their regulations in accordance with the FOIA Improvement Act of 2016 to do so as soon as feasible.


- The Court held that draft biological opinions, created by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to address whether a proposed Environmental Protection Agency action would jeopardize the existence of threatened or endangered species, could be withheld pursuant to the deliberative process privilege in conjunction with Exemption 5.

- On September 29, 2021, OIP issued guidance containing a brief discussion of the decision and highlighting two key principles from the opinion when applying the deliberative process privilege.
FOIA.gov Updates: 10x FOIA Libraries Project

- Over the past two years, GSA’s 10x team completed Phases 1 and 2 of OIP’s proposal to investigate a centralized search capability that would allow the public to search across agencies’ existing FOIA Libraries for posted documents.

- 10x approved the project for “Phase 3,” a more in-depth development phase, which will soon be underway.

- OIP will continue to work with 10x and consult with agencies and the public on this effort.
FOIA.gov Interoperability

- Joint DOJ/OMB Guidance for Achieving Inter-operability with the National FOIA Portal (February 12, 2019)
- Agencies with automated case management systems were required to implement an API by the end of FY21, unless granted an exception by DOJ/OMB.
- Agencies with non-automated solutions have already achieved interoperability via structured email.
FOIA.gov Updates: 18F Discovery

- OIP has been working with GSA’s 18F team to conduct discovery to examine the need and feasibility for additional functionality on FOIA.gov.

- Purpose: To develop a path analysis for future development efforts.

- Functionalities considered have included:
  - Features to more effectively guide a requester to the correct agency
  - Request status tracking

- Project team consulted with members of the public and agencies.

- OIP looks forward to building on the results of this path analysis as we continue to enhance FOIA.gov for requesters and agencies.
Forthcoming Resources

- **Updated E-learning Courses**
  - OIP currently revamping and updating three e-learning courses to provide training for Senior Executives, Federal Employees, and FOIA Professionals.
  - First two courses will provide a primer on the FOIA and highlight ways in which federal employees can assist their agency in administering the law.
  - More in-depth course for FOIA Professionals will cover major procedural and substantive requirements of FOIA and importance of customer service.

- **FOIA Self Assessment Toolkit**
  - OIP currently updating the “Self-Assessment Toolkit” to account for changes in law in policy. Toolkit covers FOIA administration from request intake to the maintenance of agency FOIA websites.
  - Updated toolkit will include new modules for proactive disclosures and administrative appeals.
Additional Resources
QUESTIONS?
UPDATES FROM THE OFFICE OF GOVERNMENT INFORMATION SERVICES (OGIS)
OGIS Dispute Resolution Cases - FY 2020 & 2021

- **FY 2020**
  - Cases Opened: 4062
  - Cases Closed: 4169
  - Cases Remaining Open: 102
  - Backlog*: 27

- **FY 2021**
  - Cases Opened: 4211
  - Cases Closed: 4196
  - Cases Remaining Open: 111
  - Backlog*: 30

*Backlog indicates cases awaiting resolution.
Estimated Dates of Completion (EDCs)

- 85% of requests for OGIS assistance involving delays in FY 2021 occurred after requesters asked for but did not receive an EDC

- An EDC is just that: an estimate
Estimated Dates of Completion (EDCs)

OGIS Recommendation:

“Chief FOIA Officers should ensure that FOIA professionals have the necessary resources to provide EDCs to FOIA requesters. If necessary, Chief FOIA Officers should use their statutory authority to recommend to the head of the agency adjustments to agency FOIA practices, policies, personnel, technology, and funding.”
FOIA Advisory Committee
Pending and In Progress Recommendations by Category

RAISING THE PROFILE OF FOIA WITHIN AGENCIES: 4
TECHNOLOGY: 3
OVERSIGHT: 3
FOIA TRAINING: 3
ENHANCING ONLINE ACCESS: 3
PROVIDING ALTERNATIVES TO FOIA ACCESS: 2
LOOKING TO THE FUTURE: 2
CHIEF FOIA OFFICERS COUNCIL: 2
FOIA PERFORMANCE STANDARDS: 1
FOIA AND ACCESSIBILITY: 1
FOIA ADVISORY COMMITTEE
RECOMMENDATIONS DASHBOARD

https://www.archives.gov/ogis/foia-advisory-committee/dashboard
OGIS Issue Assessment: 
Commonly Requested 
Categories of 
First-party Records 

Published August 30, 2021
Assessing Freedom of Information Act Compliance through the 2020 National Archives and Records Administration’s Records Management Self-Assessment

Published September 28, 2021

When Agency Records Officers and Chief FOIA Officers work in harmony, FOIA works better.  National Archives ID: 535858
Two upcoming events:

**Thursday, Nov. 18th - 5:00 pm-6:00 pm:**
“Saving the Freedom of Information Act”
A discussion of Professor Margaret Kwoka’s new book moderated by Tom Susman
[https://www.youtube.com/watch?v=xo3JFFEdE_o](https://www.youtube.com/watch?v=xo3JFFEdE_o)

**Thursday, December 9th - 10:00 am-1:00 pm:**
Next FOIA Advisory Committee Meeting
Stay tuned for Eventbrite and NARA YouTube information -- [www.archives.gov/ogis](http://www.archives.gov/ogis)
OGIS IS HIRING!!!

**GS-13 Management & Program Analyst for our Compliance Team**

Open & closing dates:
11/15/2021 to 11/23/2021
QUESTIONS?
UPDATES FROM COMMITTEE ON CROSS-AGENCY COLLABORATION AND INNOVATION (COCACI)
COCACI Origins

In 2020, the CFO Council co-chairs created the COCACI, which joined the Technology Committee as the second Council committee.

COCACI would build on the recommendations of the 2018-2020 FOIA Advisory Committee -- in particular Recommendation No. 2020-16 -- and the innovations accomplished by agency FOIA Offices during the pandemic.
COCACI Subcommittees

• Government Information Specialist (GIS) Professionalism Subcommittee
  • Review and promote initiatives for clear career trajectories for FOIA professionals, building on the GIS job series in coordination with existing agency efforts.

• Pandemic/Virtual FOIA Offices Subcommittee
  • Focus on taking lessons learned from the pandemic to transform FOIA Offices to thrive in a virtual environment.

• FOIA Resources Subcommittee
  • Provide information on accessing revenues streams and resources that would particularly benefit smaller agencies.
COCACI:
GIS Professionalism Subcommittee
GIS Professionalism Subcommittee

- FOIA Advisory Committee Rec. No. 2020-16

- Focused on reviewing and promoting initiatives for clear career trajectories for FOIA professionals, building on the GIS job series and identifying areas to coordinate with existing agency efforts.
• What we are examining (long-term): Recruitment strategies, hiring and retention strategies, uniform pay scale assignments and key competencies for civil servants, and professional certification testing.

• Where we are now: Studying problems contributing to GIS professionalization obstacles to ultimately propose data-backed solutions:
  • Survey of FOIA Professionals (in development);
  • Interviews with leaders and experts (ongoing); and
  • Information gathering (ongoing).

• Planned Deliverable: White Paper with recommendations for next steps.
COCACI: Pandemic/Virtual FOIA Offices Subcommittee
Pandemic/Virtual FOIA Offices Subcommittee

- Analyze and review the capability of FOIA professionals to effectively work from a virtual location during the pandemic. This group will work to gather the most relevant user experiences to highlight best practices, compile frequently asked questions and answers, user guides, and identify recommendations to improve the virtual work experience to better support FOIA processing throughout federal agencies.
Pandemic/Virtual FOIA Offices Subcommittee

- Long Term: Compile and make available lessons learned from teleworking and make recommendations to federal agencies pertaining to best practices for teleworking as a FOIA professional building upon the best practices that have already been examined and applying the best practices post COVID.

- Progress Made: Framing questions for survey to send to FOIA professionals in order to receive feedback pertaining to the transition from an in office FOIA environment to a teleworking FOIA environment.

- Planned Deliverable: Publish a list of best practices and lessons learned focusing on tactics, techniques and procedures that were effective in making the transition from an in office FOIA environment to a teleworking FOIA environment which is sustainable post COVID.
COCACI:
FOIA Resources Subcommittee
FOIA Resources Subcommittee

- Identify opportunities for standardization in a variety of resources (including procurement vehicles and technology) available to FOIA Offices to increase efficiency and ease of use across government agencies.

- Compile and create reference materials and training sessions to help agencies explore these resources.

- Identify opportunities for resources (including procurement vehicles and technology) to be standardized to increase efficiency and ease of use across government agencies.

- Identify and highlight resources that are already standardized.
COCACI Conclusion

- We are three subcommittees: GIS, Pandemic, and Resources
- Improving collaborative efforts across the federal government to
  - Examine the current state of the GIS profession with a goal of harmonizing recruitment, retention, pay, and development of the career
  - Take lessons learned from the pandemic and applying them to the future of the FOIA
  - Review common resources and uncover existing needs in federal FOIA offices to standardize resources, improving access and efficiency
UPDATES FROM THE TECHNOLOGY SUBCOMMITTEE
About Us

• In response to Rec. No. 2018-01 of the 2016-2018 term of the FOIA Advisory Committee, the Archivist of the United States proposed that the Chief FOIA Officers (CFO) Council establish a technology subcommittee, in partnership with the Chief Information Officers (CIO) Council, to study the utilization and deployment of technology in FOIA programs across agencies and identify best practices and recommendations that can be implemented across agencies.

• Membership:
  • 39 members from at least 23 departments/agencies
About Us

Public Website:
- https://www.archives.gov/ogis/about-ogis/chief-foia-officers-council/technology-committee
- https://www.justice.gov/oip/chief-foia-officers-council

Seven Technology Committee Working Groups:
- 508 Compliance and Collaborative Tools | Charter
- Artificial Intelligence | Charter
- FOIA and Classified Information | Charter
- FOIA Searches | Charter
- FOIAonline | Charter
- FOIAXpress | Charter
- Video Review and Redactions | Charter

Recap: Chief FOIA Officers Council, Technology Committee Update for the Chief FOIA Officers Council (Oct 14, 2020)
FY 2021 Accomplishments

- Completed work on recommendations in February 2020 Report

- OIP Hosts Artificial Intelligence Event Featuring CFO Council Technology Committee Working Group - Nov. 2020


- Office of Information Policy (OIP) Best Practices Workshops
  - Intelligence Community Session (March 11, 2021)
  - Federal FOIA Community Session (March 30, 2021)

- Briefed at April 2021 CFOC Meeting
FY 2021 Accomplishments

• Finished Two Reports
  • *Best Practices for Video Redaction - Technology Committee of the Chief FOIA Officers (CFO) Council* (Jul 29, 2021)
  • *FOIA Searches: Key Challenges and Findings - Technology Committee of the Chief FOIA Officers Council* (Sep 29, 2021)
    • Met with FOIA Advisory Council (FAC) Members Regarding FOIA Search Capabilities at Agencies

• Developed plans for FOIA Technology Showcase in February 2022
  • An opportunity for vendors to connect with FOIA professionals
Next steps

• Update Working Group Charters - Updated Deadlines
  • Discussion of potential new working groups on data, interoperability of IT tools, and more
  • Dig deeper into technical issues at agencies
  • Complete Pending Deliverables in Charters

• FOIA Technology Showcase Event in Early 2022
  • Request for Information (RFI) Currently on SAMS

• Solicit Feedback from FOIA Advisory Committee, Chief FOIA Officers Council, federal agencies, and the public on topics of interest or shared best practices.

• Add new members to the Technology Committee
Questions & contact information

• Eric F. Stein, SteinEF@state.gov
• Michael Sarich, michael.sarich@va.gov
PUBLIC COMMENTS

Please limit your comments to 3 minutes
See you in Spring 2022!