

# Chief FOIA Officer Report

February 4

# 2013

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Committee for Purchase From People  
Who Are Blind or Severely Disabled  
(41 U.S.C. 8501 et. seq.)

## **2013 Chief FOIA Officer Report**

The Committee for Purchase From People Who Are Blind or Severely Disabled (CPBSD), operating as the U.S. AbilityOne Commission, is the Federal agency that administers the AbilityOne Program, established by the Javits-Wagner-O'Day (JWOD) Act, 41 U.S.C. 8501 *et seq.* Its mission is to provide employment and training opportunities for people who are blind or have other significant disabilities.

Under the AbilityOne Program, the CPBSD approves certain products and services procured by the Federal Government for addition to the Procurement List (PL). These products and services are provided by over 600 local nonprofit agencies located throughout the United States that employ people who are blind or have other significant disabilities, and are mandatory purchases for Federal customers.

The CPBSD is composed of fifteen members appointed by the President including one officer or executive employee of the Departments of Agriculture, Defense, Army, Navy, Air Force, Education, Commerce, Veterans Affairs, Justice, Labor, the General Services Administration and four private citizens who are cognizant of the employment challenges of people who are blind or severely disabled. There is a small professional staff of approximately 27 full-time Federal employees to support the members. The agency is located in Arlington, Virginia.

The Attorney General has highlighted the key role played by each agency's Chief FOIA Officer and emphasized that "[i]mproving FOIA performance requires the[ir] active participation." Accordingly, the Attorney General directed agency Chief FOIA Officers to review "all aspects of their agencies' FOIA administration" and to report each year to the Department of Justice on the steps taken "to improve FOIA operations and facilitate information disclosure."

This report satisfies that annual requirement for the period from March 2012 to March 2013. The following information is provided as insight into this agency's activities in this regard in accordance with current guidelines. This submission is made February 7, 2013.

## 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. The answers (*in italics*) to the questions below describe the steps taken by the CPBSD to ensure that the presumption of openness is applied to all decisions involving the FOIA.

1. [a.] Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? *No*

[b.] Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice? *Yes. One employee attended FOIA training provided by the Department of Justice.*

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.

2. Did your agency make any discretionary releases of otherwise exempt information? *Yes*
3. What exemptions would have covered the information that was released as a matter of discretion? *Exemption 5 U.S.C. § 552(b)(5).*
4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion. *In general, information relating to the deliberative process of the CPBSD members in deciding which products or services may be suitable for procurement by the Government and added to the Procurement List.*
5. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. *Although the CPBSD has few FOIA requests, each request is carefully evaluated to ensure that the presumption of openness, as established by the 2009 Memoranda issued by the President and the Attorney General, is met and applied as appropriate.*

## **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 includes a discussion of how the Commission has addressed the key roles played by agency personnel who respond to requests. This includes, in particular, steps taken to ensure that the CPBSD FOIA Program is efficient, effective and has sufficient IT support. They are described below in answers to the following questions.

1. Do FOIA professionals within your agency have sufficient IT support? *Yes*
2. Do your FOIA professionals work with your agency's Open Government Team? *Yes. The CPBSD members and its senior leadership team promote and support the functions of an "Open Government Team" initiative and work closely with the agency's FOIA team.*
3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration? *Yes*
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.

*As a micro agency, the senior leadership is involved and fully supports the efficient and effective aspects of the FOIA system and ensures any needed IT support is coordinated with the Chief Information Officer.*

## **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. This section describes the steps the Commission has taken to increase the amount of material that is available on its agency website, and the usability of such information. The answers below focus on improvements to proactive disclosures.

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

*The CPBSD's new website, initially developed in 2012, has continued to expand with 75<sup>th</sup> Anniversary celebration materials, annual reports, and nonprofit agency evaluation forms.*

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. ?

*The website team includes staff as well as other designated stakeholders in the AbilityOne Program thereby ensuring that feedback on all materials is achieved. The website solicits feedback and suggestions via a link to [info@abilityone.gov](mailto:info@abilityone.gov) positioned prominently in the upper portion of each webpage.*

3. If so, provide examples of such improvements.

*The 75<sup>th</sup> Anniversary team is composed of federal employees and central nonprofit agencies personnel that collaborate to develop appropriate materials for posting to the agency website.*

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

*The agency has expanded and improved its FOIA page. As additional AbilityOne Program-specific materials are identified, they are added to the website during routine updates.*

## 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." For 2013, the answers to the following questions address innovative aspects of technology use by CPBSD.

### Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency? **Yes**
2. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency? **n/a**

### Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically? **No**
4. If so, describe the information that is provided to the requester through the tracking system. **n/a**
5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request? **n/a**
6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? ***Due to the small number of FOIA requests received, there are no steps being taken to establish an online tracking system at this time.***

### Use of technology to facilitate processing of requests:

7. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency? ***No. CPBSD receives a small volume of requests annually. This trend has continued for the past two reporting periods. The practices in place result in the efficient processing of FOIA requests and eliminate the need to implement advanced technologies at this time.***
8. If so, describe the technological improvements being made. **n/a**

## 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.

Please note that figures used in the answers to these questions reflect the findings reported in the CPBSD 2012 Annual FOIA Report. As stated in that report, there were no FOIA requests in pending or backlog status at the end of FY 2012. All actions were closed without administrative appeal.

1. 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.
  - a. Does your agency utilize a separate track for simple requests? **No**
  - b. 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? **n/a**
  - c. 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? **Yes**
  
2. 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.
  - a. 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? **As noted in the CPBSD 2012 Annual FOIA Report data, the agency did not have a backlog of requests or appeals at the end of FY 11 or FY 12.**
  - b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011? **The lack of an initial backlog did not provide a basis for a decrease in administrative appeals. Appeals remained at zero for FY 11 and FY 12.**
  - c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011? **Yes.**

d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011? ***CPBSD ended FY 11 without appeal requests and as a result did not have any administrative appeals to close at the end of FY 12.***

3. 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:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests? ***n/a***
- b. Was the lack of a reduction in the request backlog caused by a loss of staff? ***n/a***
- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received? ***n/a***
- d. What other causes, if any, contributed to the lack of a decrease in the request backlog? ***n/a***

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals? ***n/a***
- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff? ***n/a***
- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received? ***n/a***
- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog? ***n/a***

4. OIP has issued guidance<sup>1</sup> 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. ***n/a***

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<sup>1</sup> <http://www.justice.gov/oip/foiapost/2010foiapost5.htm>



## 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? **No**
2. If so, what was the total number of times exclusions were invoked? **n/a**

## **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. The success story can come from any one of the five key areas.

*In 2012, CPBSD leadership placed renewed emphasis and directed full agency support to ensuring that all FOIA requests were handled in a timely and accurate manner. As a result, CPBSD successfully eliminated a previous backlog of requests and completed and responded to all current FOIA requests within the required 20 days.*