

**National Endowment for the Humanities
2013 Chief FOIA Officer Report**

Content of 2013 Chief FOIA Officer Report

Time frame for Report

Unless otherwise noted, your 2013 Chief FOIA Officer Report should address agency activities that have occurred since the filing of last year's Report, which was March 12, 2012, up until the filing of the 2013 Report, which will be March 11, 2013. Thus, the general reporting period for the Chief FOIA Officer Reports is March 2012 to March 2013.

Name and Title of Agency Chief FOIA Officer: Carole M. Watson, Deputy Chairman

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?

Yes. The National Endowment for the Humanities' (NEH) Office of the General Counsel (OGC), which is responsible for processing the agency's FOIA requests and appeals, provided training on an "as needed" basis to NEH staff who assist the OGC with searching for and identifying records responsive to a FOIA request.

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

Yes. OGC staff who have FOIA responsibilities (FOIA staff) attended the following trainings by the Department of Justice: *Directors Lecture Series: Tracking Agency Progress to Implement the FOIA Guidelines* and *Director's Lecture Series: FOIA Fundamentals, Refresher Training for FY 2012 Annual FOIA Reports and 2013 Chief FOIA Officer Reports*.

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.

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

NEH released multiple internal agency staff e-mails discussing deliberative matters.

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

NEH is currently in the process of updating its FOIA regulations, which were last revised in 1987, to ensure that they are consistent with current FOIA laws and the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. The agency recently submitted its new FOIA regulations for comment to the Federal Register.

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?

Yes. The IT office consistently provides the FOIA staff with valuable support on a timely basis, and both the IT office and the FOIA staff maintain a close and cordial working relationship.

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

Yes. The FOIA staff works with the agency's Open Government Team on an "as needed" basis.

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

Yes. NEH annually assesses whether it has adequate staffing devoted to FOIA administration.

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.

Over the past year, NEH has improved its FOIA system by reducing, where possible, the time spent searching for responsive records. Previously, regardless of the type of request, the OGC would ask an office and/or division responsible for searching for responsive records to complete its search within a standard time frame. In some cases, an office and/or division did not respond to the date the records were due to the OGC even when the office and/or division could have responded to the request several days in advance of the due date. Now, for each request, the OGC tailors the due date for responsive records to each FOIA request by considering how long it may take for offices and/or divisions to search for requested records and, if necessary, also by consulting with them to determine the due date.

In addition to reducing its search times, NEH has improved its FOIA system by notifying the offices and/or divisions responsible for searching for responsive records about new FOIA requests on the same day that NEH receives these requests.

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.

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NEH regularly posts new information about agency activities on its website. For example, it posts press releases about funded projects, lists of recent grant awards, sample grant application narratives, speeches by the NEH Chairman, information on grant administration, application guidelines, annual agency reports (e.g., Performance and Accountability reports, Service Contract Inventory reports, etc.) and the full text of *Humanities*, NEH's bimonthly magazine.

This past year, NEH added an organizational chart; biographies and photographs of some of its senior staff; webpages for its Office of Communications and Public Affairs, and its Office of Congressional Affairs; a social media index, which contains NEH as well as office and division specific RSS feeds and Twitter page links; a section called *Explore*, which contains an interactive database of websites, applications, and NEH-supported digital projects; and guidelines on using NEH's logo (e.g., how to use it in print and electronic communications).

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.?

Yes.

3. If so, provide examples of such improvements.

NEH has significantly improved the search performance and capabilities on its website. These improvements include a completely indexed website; search results that provide search term suggestions; search results that include "stemmer" algorithms, thus providing users with more results (e.g., a search for "walk" will result in "walks", "walker", "walked", etc.); and more user friendly search results with a more accessible interface.

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

NEH regularly uses social media platforms to further disseminate information about its programs and activities, to connect with people who are interested in the humanities, and to provide a place for the public to communicate and exchange ideas with those who are interested in the agency's work. This past year, on its Facebook page, NEH posted press releases, information about recently awarded grants, examples of funded projects, information about recently appointed National Council on the Humanities members, and upcoming NEH-sponsored events. On Twitter, NEH posted about new grant programs, grant deadlines, staff travel to conferences, and sample grant application narratives. Finally, on YouTube, NEH posted videos of past NEH conferences, past Jefferson Lectures, and interviews with humanities scholars.

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 2013, as we did in 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?

Yes. Requesters can make electronic FOIA requests to NEH through its online FOIA request form, which is available at <http://www.neh.gov/about/foia/submit-request-online>.

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

Not applicable. NEH is a small government agency and it does not have separate components that receive FOIA requests. All FOIA requests directed to NEH are handled by NEH's Office of the General Counsel.

Online tracking of FOIA requests:

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

No. As a small government agency, NEH receives relatively few FOIA requests each year. For example, in FY 2012, NEH received only thirty-four requests and one appeal. Accordingly, NEH has determined that it is unnecessary and would not be cost-effective for the agency to offer an electronic tracking system for its requesters at this time.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

Not applicable.

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

Not applicable.

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

No. See response to Question IV.3. above.

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, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

No. As explained in IV.3. above, NEH receives a limited number of FOIA requests each year, and therefore, the agency is not taking steps at this time to utilize more advanced technologies. However, should the number or complexity of FOIA requests rise, NEH will reassess whether it should implement advanced technologies to facilitate the agency's overall FOIA efficiency.

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

Not applicable.

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.*

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?

Yes.

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- 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?

Yes. In FY 2012, NEH spent an average of fifteen days to process simple requests.

- 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?

Not applicable.

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?

NEH had no backlogged requests at the end of FY 2012. The agency had three backlogged requests in FY 2011.

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

NEH had no backlogged administrative appeals in FY 2012. The agency had one backlogged appeal in FY 2011.

- 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?

Yes.

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:

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

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

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?

Not applicable.

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

Not applicable.

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

Not applicable.

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

Not applicable.

4. 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.

Not applicable.

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?

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

On April 9, 2012, NEH launched a comprehensive new website to provide a more user-friendly, engaging, and transparent platform for individuals and organizations seeking grants and for members of the public who are interested in humanities research, scholarship, and public programs.

In addition to the new materials mentioned in Section III.1. above, NEH added the following features to its website this past year: *NEH in the News*, which highlights press mentions of NEH-funded programs and initiatives; *Events*, which provides information on upcoming NEH-sponsored programs; and *NEH Fact Sheets*, which are topical or state-specific and contain information about NEH-funded projects.

NEH also revamped its *Grants* section to make it more accessible and easier to navigate, as well as its *Divisions and Offices* section to provide the public with richer content and more dynamic features. For example, each of NEH's program offices and divisions now have their own landing pages to feature funded projects, news about program-specific grants and opportunities, the names and contact information of all division or office staff, opportunities to meet NEH staff in the field, and a link to the division or office's official Twitter feed.

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As a result of the newly designed website, NEH has seen a significant increase in the number of visitors to it and a decrease in requests for certain kinds of information. In the eight months prior to the website's launch (10/01/2011 to 04/09/2012), NEH had a total of 153,596 visitors. However, in the eight months after the launch (04/10/2012 to 12/10/2012), NEH has had a total of 219,258 visitors, a 42.7% increase. In addition, since NEH posted the topical and state-specific fact sheets (mentioned in Section III.1. above), the Office of Communications and Public Affairs has seen a significant decrease in requests from the media and the public for these kinds of materials.