Office of Management and Budget (OMB)
Chief Freedom of Information Act (FOIA) Officer's Report
March 2013

This Chief FOIA Officer's Report is issued in accordance with the Attorney General Guidelines on FOIA issued on March 19, 2009. In compliance with those Guidelines, OMB's Chief FOIA Officer has reviewed all aspects of OMB's FOIA administration and issues this report on the steps OMB has taken to improve FOIA operations and facilitate information disclosure.

OMB continues to maintain one of the fewest number of pending FOIA requests and has one of the smallest backlog of requests government-wide. At the end of Fiscal Year (FY) 2012, OMB only had a total of 20 FOIA requests pending, of which 6 were pending beyond the statutory time period. In addition to focusing on the use of efficient FOIA procedures, OMB is continuing to look for ways to improve the accessibility of information to the public. From FY 2011 to FY 2012, the number of requests that were granted in full rose from 57 to 59, the number of partial grants rose from 31 to 53, and the number of full denials dropped from 15 to 8. This report provides greater detail on OMB's efforts in these areas, as well as the steps OMB will take to make further improvements to its FOIA procedures.

Copies of this report, as well as information on how to make a FOIA request to OMB, are available at the "FOIA" site on the OMB Home Page at http://www.whitehouse.gov/omb/foia.

Those wishing to submit FOIA requests to OMB should submit their request, in writing, to OMB either via email OMBFOIA@omb.eop.gov, fax (202) 395-3504, or to the following mailing address: Office of Management and Budget, New Executive Office Building, FOIA Officer, Room 9026, 725 17th Street, N.W., Washington, D.C. 20503.

I.   Steps Taken to Apply the Presumption of Openness.

As described in OMB's previous Chief FOIA Officer reports, OMB focuses on applying the presumption of openness in all decisions involving the FOIA. For each FOIA request received, OMB's FOIA Officer and OMB's Office of the General Counsel (OGC) ensure that the President's FOIA Memorandum, the Attorney General's FOIA Guidelines, and the presumption of openness are being applied. This effort is applied during the search for responsive material, to ensure that search is comprehensive, and to the review of the responsive material, to best determine what can be released.

While OMB did not hold any FOIA training of its own, OMB personnel did attend DOJ's FOIA seminars and training to ensure it continued to apply the Attorney General's Guidelines consistent with the U.S. Department of Justice's (DOJ) government-wide guidance.

As reported in previous Chief FOIA Officer reports, OMB's document-review procedure involves a document-by-document, line-by-line review conducted by agency personnel to identify material that is appropriate for release, including whether OMB can discretionarily release material that falls within one of the FOIA's exemptions. This careful review is followed by another review, of any redactions made during the initial review, to ensure that OMB has

properly implemented the presumption of openness. Therefore, all releases undergo review more than once to ensure that the presumption of openness has been applied appropriately.

It is noteworthy that in FY 2011, the number of requests that OMB granted in full was 57; in FY 2012, OMB granted 59 requests in full. The number of partial grants, over that same period of time, increased at a greater rate, rising from 31 (in FY 2011) to 53 (in FY 2012). Furthermore, the number of full denials decreased by almost half, from 15 in FY 2011 to 8 in FY 2012. Thus, the number of responses in which OMB released some records increased from 88 to 112 from FY 2011 to FY 2012.

II.   Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests.

OMB continues to improve upon the system it uses to develop responses to FOIA requests, in order to make that system more effective and efficient. To that end, OMB ensures that its FOIA professionals have sufficient IT support, receive adequate staffing, and are in close collaboration with other components of the agency that are devoted to transparency initiatives, such as the agency's Open Government team. This close collaboration allows for personnel working in these areas to know of the various efforts undertaken to increase OMB's transparency and to understand the role the agency is playing in government-wide transparency projects.

As explained in OMB's prior Chief FOIA Officer Reports, OMB's FOIA processing begins when the request is received by OMB's FOIA Officer, who is within the agency's Management and Operations Division. From that point, the FOIA Officer works closely with the program office(s) within OMB, which conducts the search for potentially responsive records, and with OMB's OGC, which devotes substantial resources to conducting a careful, line-by-line review of all potentially responsive documents before a response is issued. Once these steps are complete, the FOIA Officer finalizes the response and sends it to the requester.

During FY 2012, OMB made improvements to this process that have created a more "team-based" approach, which has further streamlined OMB's procedures and should reduce request-processing periods. These improvements include holding a meeting, soon after a FOIA request is received, to discuss the request and determine the path forward for OMB's processing of the request. These meetings typically include OMB's FOIA Officer, a representative from OGC, and staff from the offices within OMB that are most likely to have records that are responsive to the request.

Also, OMB now holds periodic meetings (typically on a bi-weekly basis) to discuss the status of each pending FOIA request. This allows the agency to identify any circumstances that have created (or may create) delays in the agency's processing of a request and to identify, as expeditiously as possible, any steps than can be taken to reduce or avoid such delays.

Some of the effects of instituting a more "team-based" approach are reflected in OMB's Annual FOIA Report. For instance, from FY 2011 to FY 2012, the number of FOIA requests that OMB processed during the FY increased from 173 to 207, and the number of requests that were pending at the end of the FY dropped from 36 to 20. During FY 2013, OMB is looking into ways to make even greater improvements in this area.

III.   Steps Taken to Increase Proactive Disclosures.

As explained in prior years' Chief FOIA Officer's Reports, OMB continues to offer a number of high-value datasets for downloading online. A catalogue of these datasets is available here: http://www.whitehouse.gov/open/around/eop/omb/datasets. OMB also actively disseminates data on the government-wide open data site Data.gov. Through this site, OMB has disseminated several datasets, including regulatory reviews (per Executive Order 12866) by calendar year, history of economic forecasts, improper payments database, extracts from the IT Dashboard, and excess Federal properties.

Additionally, OMB relies on several websites to increase the amount of publicly available information. As OMB completes a response to a FOIA request, it determines whether it would be helpful to post any material provided to the requester on these websites. Those websites include: (1) the Regulatory Review and Information Collection Review Dashboard, at http://www.reginfo.gov/public/; (2) OMB's record management policy, at http://www.whitehouse.gov/omb/records_management_policy/; and (3) the OMBlog, which is frequently updated by OMB officials. Other websites that OMB continues to update include ITdashboard.gov, USAspending.gov, Performance.gov, and Recovery.gov.

A good example of OMB's efforts in this area is the disclosure of data on improper payments, which is available at http://www.paymentaccuracy.gov. On this site, OMB continues to release government-wide information about (1) the current and historical rates and amounts of improper payments, (2) why improper payments occur, and (3) what agencies are doing to reduce and recover improper payments. This site also links to a dataset that is updated each year by OMB, which provides information on improper payment estimates for programs across the government that are found to be susceptible to significant improper payments under the Improper Payments Information Act, as amended. The dataset specifically provides the following information on each of these agency programs: (1) outlays, (2) improper payment amounts, and (3) projected program outlays and improper payment amounts.

OMB also continues to take the lead in implementing the Administration's Digital Government Strategy (at http://www.whitehouse.gov/sites/default/files/omb/egov/digital-government/digital-government.html). This initiative provides a framework by which the government's use of digital services can be enhanced. An important part of this work is OMB's on-going efforts to work with agencies across the government to make data and content more accessible. For example, in an effort to increase the public's access to government data, OMB required agency implementation reporting be published directly at [agency].gov/digitalstrategy in machine readable formats. This will allow anyone to generate dynamic reporting from data and also ensures public access to the raw data from the start.

IV.   Steps Taken to Greater Utilize Technology.

Electronic receipt of FOIA requests:

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

Only one office within OMB receives FOIA requests and that office has the capability to receive those requests electronically. OMB uses the email address OMBFOIA@omb.eop.gov to receive requests electronically.

Online tracking of FOIA requests:

3. *Can a FOIA requester track the status of his/her request electronically?*
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.*
5. *In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?*
6. *If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?*

OMB has found that, given the number of requests received in a FY and the few pending at any given time, OMB's FOIA Officer is familiar with the status of each request, such that a requester can call or email OMB to find the status of their request.

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

Over the past year, there has been a greater reliance on technology in OMB's FOIA processing to increase its efficiency in responding to requests that are seeking a large volume of potentially responsive material. In situations where the request calls for a search of several OMB employees' records, across various offices within the agency, or the subject matter of the request indicates that there may be many responsive records, OMB relies on software to conduct a centralized search. This software reduces the time needed for a search to be conducted, as OMB does not need to rely on many different employees to conduct separate searches. The software also stores the documents in a centralized location, allowing OMB to organize the material in a more efficient way. This allows those processing the documents to locate non-responsive or duplicative material more easily.

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

1. *Response Time for All Processed Requests.*
   a. *Does your agency utilize a separate track for simple requests?*
   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?*
   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?*

OMB does not use a separate track for processing simple requests, as it has a "first-in, first-out" processing system. The average number of days for processing requests was sixty-nine days.

2. *Backlogged and Ten Oldest Requests and Appeals*
   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?*

   OMB had a backlog of six requests at the end of FY 2012, which is an increase from the end of FY 2011, when OMB had one backlogged request.

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

   OMB did not have a backlog of administrative appeals at the end of FY 2012 or 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?*

   During FY 2012, OMB closed all of its ten oldest requests that were pending as of the end of FY 2011.

   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?*

   OMB did not have any pending administrative appeals at the end of FY 2011.

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:*
   a. *Request Backlog:*
      i. *Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?*
      ii. *Was the lack of a reduction in the request backlog caused by a loss of staff?*
      iii. *Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?*
      iv. *What other causes, if any, contributed to the lack of a decrease in the request backlog?*

As mentioned above, OMB's backlog increased from one at the end of FY 2011 to six at the end of FY 2012. OMB continues to have one the smallest backlogs government-wide, as well as a small number of requests pending at any one time.

While there was a small increase in backlog from the end of FY 2011 to the end of FY 2012, OMB also made improvements in other areas of FOIA processing. Specifically, OMB processed 34 more requests during this time period, rising from 173 processed in FY 2011 to 207

in FY 2012. In fact, the number of overall request pending at the end of FY 2012 was less than the prior year, dropping from 36 to 20 requests. Additionally, OMB was able to improve its response time in FY 2012, dropping the average response time from 82 to 69 days and the median response time from 66 to 44 days.

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.*

At the end of FY 2012, OMB had six pending requests in its backlog. Since then, OMB has closed all six of those requests.

<center>Use of FOIA's Law Enforcement "Exclusions"</center>

1. *Did your agency invoke a statutory exclusion during Fiscal Year 2012?*
2. *If so, what was the total number of times exclusions were invoked?*

OMB did not invoke a statutory exclusion during Fiscal Year 2012.

<center>Spotlight on Success</center>

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As noted above, in FY 2011, the number of requests that OMB granted in full was 57; in FY 2012, OMB granted 59 requests in full. The number of partial grants, over that same period of time, increased at a greater rate from 31 (in FY 2011) to 53 (in FY 2012). Furthermore the number of full denials decreased, from 15 (in FY 2011) to 8 (in FY 2012). Thus, the number of responses in which OMB released some records increased from 88 to 112 from FY 2011 to FY 2012.