



**Plan for Improvement of the Administration
of the
Freedom of Information Act Program
at
The Federal Trade Commission**

Submitted to
The Department of Justice
The Office of Management and Budget

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A. Description and Overview of FOIA Program

The Federal Trade Commission (“FTC”) is an independent law enforcement agency comprised of two major law enforcement Bureaus, Consumer Protection and Competition, supported by the Bureau of Economics and regional and mission support offices. The FTC’s Freedom of Information Act Program (“FOIA”) is a component of the agency’s Office of General Counsel (“OGC”). The FTC’s FOIA operations are centralized and the office responds to all requests for records located in the Headquarters in Washington, D.C. and eight regional offices. The office is staffed with eight full-time employees: one supervisory attorney, one staff attorney and six paralegals. The staff attorney and paralegals are each responsible for their own caseload of requests; which includes reviewing each request for expedited processing and fee waivers, sending acknowledgment letters informing requesters of the FOIA Case number and providing their direct phone number, locating responsive records, reviewing the records, applying exemptions and making recommendations for release to the supervisory attorney. The senior supervisory attorney reviews all responses for accuracy and completeness before they leave the agency. The agency responds to approximately 1,000 requests per year.

In addition to the full-time staff, each operating unit within the agency has designated one staff member as the FOIA contact for that office. The FOIA contact is responsible for identifying the responsive records within that unit and forwarding such records to the FOIA staff for review. The FOIA contacts are trained by the FOIA office. In addition to the FOIA contacts, agency staff members with responsive documents are required to fill out a referral form indicating the locations searched and the records located. The agency has found that the combination of the responsibilities between FOIA contacts and agency staff provides accurate and timely results.

The FOIA operations moved to OGC in January of 1998. At that time, the office was staffed with one assistant, two attorneys and three paralegals. OGC reviewed the program and made many substantive changes to the FOIA program, increased the staffing levels, improved searches, and implemented line-by-line review to ensure that all non-exempt portions of records are released. In early 2002, the FTC Chairman hired an outside consultant to review the program and determine if further changes should be made. After comparing the FTC’s program to similarly situated programs at other agencies, the consultant commended the FTC’s customer service orientation noting that FOIA staff was in regular contact with the requesters and many of the conversations resulted in significant narrowing of requests that save precious time and resources. He further noted that many of the telephone conversations resulted in requesters withdrawing requests because the FOIA staff was able to direct requesters to information available on the FTC’s website.

After September 11, the agency observed that there were often lengthy delays in receiving mail which led to very unhappy customers. The FOIA office began actively exploring ways to use electronic means to expedite processing of requests. In order to facilitate ease of filing document requests, the FOIA office reconstructed the FOIA portion of the FTC’s website. The new website provides prominent links to both an on-line request form (and instructions for filling it out) and a link to a FOIA e-mail account to facilitate acceptance of electronically submitted FOIA requests.

The agency has actively sought to make agency records publicly available as much as possible. The FOIA website provides links to other areas of the FTC website where records on a wide variety of topics are found, obviating the need for FOIA requests in many instances. The FTC commits resources to maintain an extensive collection of documents on-line, and the links provide additional methods of finding information on the website. Additionally, staff in the FOIA office conducted a training session for the staff in the agency's Consumer Response Center, the unit responsible for the public reference room and the consumer complaint hotlines. This training increased the understanding between the offices and ensured that the Consumer Response Center provided accurate information to consumers and an accurate understanding of what consumers could expect to receive under the FOIA. The agency's commitment to placing records on the website and the availability of more records in its Consumer Response Center eliminated nearly 100 requests per year from a watchdog group that was able to get the information without going through the FOIA. Finally, the FOIA office worked with the agency's Premerger Notification Office to aid in putting informal advice letters on-line, which were the subject of numerous FOIA requests each year. While no quantifiable data exists to support the contention that these steps alone are responsible, the overall number of FOIA requests decreased from 1586 in 2001 to 1016 in 2002.

In addition to the ability to receive requests electronically, the agency began a search for an off-the-shelf software package that would enable the FOIA office to maintain a totally electronic environment. Until the autumn of 2004, the agency tracked requests in an Access database that did not provide the ability to multi-track (differentiate between simple and complex requests) or handle records electronically. Working with the Agency's Chief Information Officer, the FOIA Office reviewed many options and selected and purchased a suitable software program. On October 1, 2004, after several months of testing, the office began processing all FOIA requests electronically. The system provides capabilities to multi-track requests, track requests for documents from operating units, track requests for fee waivers and expedited treatment (and responses thereto), import responsive records, redact and apply exemption codes electronically, generate response letters, and transmit the completed response electronically.

In FY '04, when the agency first switched to an all electronic environment and began capturing the multi-tracks, the agency responded to 608 simple requests in a median 11 days and 175 complex requests in a median 41 days. In FY '05, as users became more familiar with the software, the agency responded to 875 simple requests in a median 6 days and 127 complex requests in a median 53 days. As of May 2006, the agency has responded to 525 simple requests in a median time of 5 days and 102 complex requests in a median time of 33 days. It has no backlog of FOIA cases that are not being actively processed.

B. Areas Considered for Review:

1. Affirmative disclosure under 5 U.S.C. §552(a)(2)
2. Proactive disclosure of information
3. Overall FOIA website improvement
4. Improvement of agency's FOIA Reference Guide
5. Automated tracking capabilities
6. Electronic FOIA – Automated Processing
7. Electronic FOIA – Receiving/responding to requests electronically
8. Troubleshooting problems with respect to existing electronic tracking
9. Expedited processing
10. Backlog reduction/elimination
11. Politeness/courtesy
12. Forms of communication with requesters
13. Process by which necessary cooperation is obtained from agency “program personnel”
14. Additional training (formal and/or on-the-job)
15. Recycling of improvement information gleaned from FOIA Requester Service Centers
16. Agency billing and collection.

C. Results of Review

Review of the FTC's FOIA office indicates an efficient and effective operation that has the support of management and staff within the agency. The agency's commitment of resources in staff and the new electronic tracking system have increased satisfaction within the agency and its outside clients. The FOIA staff's commitment to regular communication with requesters has led to narrowing or withdrawal of many requests. The staff also successfully breaks down large requests into smaller portions and sends out records in partial responses so the requester has a continual flow of records as they are reviewed. These procedures not only keep the requester satisfied, they often lead to the remainder of the request being withdrawn because the requester receives sufficient information in early responses.

D. Areas chosen for improvement:

1. Dedicate existing staff position to Program Assistant
2. Troubleshooting any existing problems with respect to electronic tracking
3. Training
4. Process by which necessary cooperation is obtained from agency “program personnel”
5. Billing and collection
6. Overall FOIA website improvement
7. Agency's FOIA Reference Guide
8. Affirmative disclosure under 5 U.S.C. §552(a)(2)
9. Recycling of improvement information gleaned from FOIA Requester Service Centers
10. Forms of communication with requesters

E. Improvement Areas:

1. Dedicate Existing Staff Position to Program Assistant

Goals: The agency's goal is to hire a Program Assistant to assist staff with data input, scanning and redacting, and website improvement.

Steps:

- a. Work with Human Resources office to post vacancy announcement and receive list of qualified candidates
- b. Interview candidates and select individual for the position

Time Measurements:

April 15, 2006: Post vacancy announcement
June 2, 2006: Contact candidates for interviews
October 1, 2006: Interview and hire candidate

Means of measurement of success:

The candidate will be hired by the target date.

2. Troubleshooting any existing problems with respect to electronic tracking

Goal: The agency's goal is to ensure that requests are placed in the proper track to decrease the median number of days for simple requests and ensure that requests are processed in the proper order.

Steps:

- a. Create clear guidelines for staff for identifying simple or complex requests
- b. Determine best method of ensuring compliance with multi-track designation (*i.e.*, supervisor approval to select track, clear designation in review memo, etc.)
- c. Designate one senior staff person to review proposed tracking designations based on the guidance created

Time milestones:

July 31, 2006: Complete entire task

Means of measurement of success:

We will compare completion times from before the changes are implemented. Within six months, median days for simple requests should remain the same or decrease, and median days for complex requests should remain the same or decrease.

3. Training

Goal: The agency's goal is to conduct training for agency operating units on individual responsibilities under FOIA, legal requirements and procedures at the FTC.

Steps:

- a. Prepare comprehensive training manual for all agency staff
- b. Prepare customized training materials specific to operating unit FOIA contacts
- c. Conduct training for Operating unit FOIA contacts
- d. Conduct training for staff in headquarters by division
- e. Determine whether to conduct on-site training in regional offices
- f. Conduct on-site or video training for eight regional offices
- g. Post training materials on-line at the FTC's intranet site

Time Milestones:

August 15, 2006: Complete final version of training materials for FOIA contacts
September 11, 2006: Begin training FOIA contacts
October 30, 2006: Complete training of FOIA contacts
December 31, 2006: Complete final version of training materials for all agency staff
January 15, 2007: Begin Headquarters Training, determine whether to conduct on-site training in regional offices
April 30, 2007: Complete all training in Headquarters
June 15, 2007: Complete all training for Regional staff

Means of measurement of success:

By June 15, 2007, we will complete training for 90% of agency operating units. Staff evaluations should indicate an 80% positive response to training.

4. Process by which necessary cooperation is obtained from agency “program personnel”.

Goals: The agency’s goal is to work with agency personnel and, particularly, Operating Unit FOIA contacts, to determine whether current referral forms and systems for searching for records and forwarding to the FOIA office are the most efficient.

Steps:

- a. Conduct training for operating unit FOIA contacts (see item 6, above)
- b. Solicit feedback from FOIA contacts concerning effectiveness of current procedures and any suggested improvements
- c. Review comments from FOIA contacts
- d. Implement appropriate improvements in the FOIA office
- e. Incorporate improvements into training materials for all agency staff and present at trainings discussed in previous session.

Time Measurements:

September 11, 2006: Begin training for FOIA contacts and provide forms for feedback
October 30, 2006: Complete training for FOIA contacts, begin implementing changes (if necessary)
December 15, 2006: Finish implementing appropriate suggested changes to office procedures
December 31, 2006: Complete final version of training materials for all agency staff
January 15, 2007: Begin headquarters training, including new procedures

Means of measurement of success:

We will train and receive feedback from 100% of FOIA contacts. We will track compliance times for six months prior to training and six months post-training. Success is a 50 % increase in the number of requests in which non-program responses are secured within the time frame allotted.

5. Billing and collection

Goal: The agency's goal is to improve billing and tracking of collections to ensure the government is assessing and collecting the appropriate fees.

Steps:

- a. Review current billing procedures with Financial Management staff
- b. Prepare analysis of billing and collection fees for the past two years
- c. Determine if current invoices and billing procedures are appropriate
- d. Analyze possible tracking in FOIA software program
- e. Prepare plan to modify procedures so tracking is accurate, expedient, and efficient
- f. Implement new procedures

Time Measurement:

August 1, 2006: Begin meetings with Financial Management Office
September 30, 1006: Complete analysis of fee billing and collection
December 31, 2006: Complete plan for modified procedures
January 15, 2007: Implement new plan

Means of measurement of success:

If shortcomings are identified, we will increase the percentage collected by 10% in FY '07.

6. Overall FOIA website improvement

Goal: The agency's goal is to provide helpful information in a user-friendly, easily comprehensible manner.

Steps:

- a. Review other agency FOIA websites to determine possible areas for improvement
- b. Solicit feedback from agency staff
- c. Survey select staff within the agency to provide feedback on the content and form of the website
- d. Provide a place for comments on the website and encourage requesters to submit suggestions
- e. Evaluate feedback from both sources and prioritize the suggested changes
- f. Prepare mock-up pages
- g. Working with the webmaster, staff will make appropriate changes to style and format

Time milestones:

- October 31, 2006: Complete review of other agency websites
December 31, 2006: Prepare survey form and select staff to answer survey
February 15, 2007: Complete survey
March 30, 2007: Finish compiling responses to survey
June 30, 2007: Prepare mockup pages for website
September 1, 2007: Implement appropriate changes

Means of measurement of success:

We will invite informal public response on the website for outside users. Success is achieved when comments indicate that no substantive changes required.

Internally, we will provide a survey for users regarding the usefulness of the site. Success is achieved if 90% or greater find the information helpful and informative.

7. Agency's FOIA Reference Guide

Goal: The agency's goal is to create an improved guide to inform the public of the agency's FOIA operations.

Steps:

- a. Review current guide (last revised May 2002)
- b. Revise guide to ensure current practices are accurately reflected

Time milestones:

November 1, 2006: Complete all changes to guide and post on website

Means of measurement of success:

We will invite informal public comment and suggestions. Success is achieved when comments cease to identify constructive practical improvements.

8. Affirmative disclosure under 5 U.S.C. §552(a)(2)

Goal: The agency's goal is to have all agency policy decisions posted on its website and to update and maintain frequently requested records.

Steps:

- a. Working in conjunction with the Office of the Secretary, the FOIA staff will collect all extant formal policy statements
- b. Working in conjunction with the webmaster, all policy statements will be placed on the FOIA Website
- c. FOIA staff will review all FOIA requests from the past two years and identify frequently requested records
- d. Working with the webmaster, the frequently requested records will be placed on the public record
- e. FOIA staff will create procedures to continually identify frequently requested records and methods to promptly place those on the FOIA Website

Time milestones:

- October 15, 2006: All extant policy statements will be collected
- November 15, 2006: All extant policy statements will be placed on FOIA Website, and all frequently requested records will be identified
- December 31, 2006: All frequently requested records will be placed on the website, and Office procedures for continual systematic identification of frequently requested records and procedures for immediate posting to the website will be established and implemented

Means of measurement of success:

At six month intervals, we will conduct a review of all FOIA requests received during the period and all policy statements. If virtually all frequently requested records and policy statements are posted on the FOIA website, the goal will have been met.

9. Recycling of improvement information gleaned from FOIA Requester Service Centers

Goals: The agency's goal is to receive input from FOIA requesters to determine the satisfaction level for service provided.

Steps:

- a. Create page on website for requesters to provide written feedback
- b. Instruct all FOIA staff answering Service Center calls to provide the web URL to requesters for providing feedback.
- c. Temporarily modify all response letters to provide the URL for requesters to provide feedback.
- d. Prepare analysis of feedback responses
- e. Make changes to service if needed

Time Measurements:

January 15, 2007: Create web page feedback form, instruct staff to provide URL address, and modify response letters to provide URL address

February 28, 2007: Begin analysis of responses received and remove URL address form template language

April 1, 2007: Complete analysis of responses received and recommended changes to service

April 15, 2007: Present analysis and recommended changes to staff

September 1, 2007: Begin analysis of responses received after original analysis to determine whether changes have made improvements and if further change is needed

Means of measurement of success:

Success is measured by the extent to which public responses result in a decision either to accept or reject a proposed change. Within six months, the goal is to have positive feedback or only minimal dissatisfaction in 90% of all responses.

10. Forms of communication with requesters

Goal: The agency's goal is to review and refine, if necessary, template letters to ensure they clearly and in plain English explain actions taken and determinations made with respect to each request.

Steps:

- a. Review and edit all currently used templates in FOIA program
- b. Determine whether agency needs additional templates
- c. Revise or create templates as needed

Time milestones:

June 30, 2006: Complete entire project

Means of measurement of success:

We will solicit feedback from requesters by directing them to an on-line form where they can indicate their satisfaction with the response. Within six months, the goal is to have positive feedback, or only minimal dissatisfaction with content in 90% of all responses.

F. For entire plan the improvement areas fall into the following time periods:

1. Anticipated to be completed by 12/31/06

Affirmative disclosure under 5 U.S.C. §552(a)(2)
Troubleshoot any existing problems with respect to electronic tracking
Improve forms of communication with requesters
Improve Agency's FOIA Reference Guide
Hire and train assistant

2. Anticipated to be completed by 12/31/07

Improve Website
Train agency staff
Improve process by which necessary cooperation is obtained from agency "program personnel"
Recycle information gleaned from FOIA Requester Service Centers
Improve billing and collection

3. Anticipated to be completed after 12/31/07

APPROVED:



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