

February 1, 2011

## Tennessee Valley Authority Chief FOIA Officer Report

### I. Steps Taken to Apply the Presumption of Openness

1. Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.
  - a. Describe how the President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been publicized throughout your agency.

*In July 2010, TVA issued an agencywide standard procedure on processing FOIA requests and defining the requirements and programs for compliance with the FOIA and the President's memorandum of Jan. 21, 2009. The procedure describes the purpose and scope of TVA's FOIA program, defines the roles and responsibilities of the FOIA officer and TVA employees, and describes the elements of the program. The procedure specifies that FOIA requests will be addressed with the presumption of disclosure of information unless a specific foreseeable harm or legal restriction is identified. The procedure is available to all TVA employees via the TVA internal website.*

- b. What training has been attended and/or conducted on the new FOIA Guidelines?

*FOIA staff participates in workshops and conferences sponsored by the Department of Justice Office of Information Policy (OIP) and the American Society of Access Professionals (ASAP). In addition, TVA subscribes to access and privacy newsletters and monitors information provided by OIP through FOIA Post.*

- c. How has your agency created or modified internal guidance to reflect the presumption of openness?

*The agencywide standard procedure issued in July 2010 revised TVA's internal guidance to include a reference to the President's memorandum and the presumption of openness.*

- d. How has your agency made discretionary releases of otherwise exempt information?

*Discretionary release of whole or partial records is often possible. TVA conducts a thorough review to determine whether full or partial disclosure is appropriate. Whenever practical, TVA makes discretionary releases of interagency and internal information.*

- e. What exemptions would have covered the information that was released as a matter of discretion?

*Exemption 2 (low) and Exemption 5*

- f. How does your agency review records to determine whether discretionary releases are possible?

*The FOIA officer consults with TVA legal counsel and subject-matter experts to determine whether releasing a record in whole or part presents a foreseeable harm. Records or parts of records for which no foreseeable harm is identified are released.*

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

*As a corporation of the federal government, TVA takes seriously its responsibility to operate and communicate openly, including its effort to honor the spirit, as well as the requirements, of the Freedom of Information Act.*

*TVA has extended its public reach, visibility and accountability through its website, [www.tva.com](http://www.tva.com). The site, recently ranked one of the five best in the federal government by Congress.org of CQ-Roll Call Group, is a primary tool for providing accurate information to the public.*

*TVA.com has been a particularly important communication tool in the recovery of an ash spill at TVA's Kingston Fossil Plant in eastern Tennessee. Since the spill occurred in late 2008, attracting national attention, TVA has used the website extensively to provide timely updates, weekly status reports, news announcements, background information, photographs and videos of the recovery directly to the community, the general public, and other interested parties. In 2010, TVA posted fact sheets and final reports from a geotechnical engineering firm hired to conduct inspections, assessments, planning and remediation work performed at all TVA coal ash impoundments at its 11 fossil plants.*

*Another example deals with the Consolidated Appropriations Act of 2005, which changed TVA's management structure and requires TVA to file financial reports with the Securities and Exchange Commission (SEC). TVA's annual reports on Form 10-K and its quarterly reports on Form 10-Q are certified by the chief executive officer and the chief financial officer.*

*TVA has adopted a Disclosure Control Policy that provides a framework for TVA to meet its obligations to disclose material information to the investment community and help investors develop and maintain realistic expectations about the performance of TVA and its securities.*

*TVA has an online newsroom with links to topics of interest, information on TVA's operational activities, company fact sheets and a calendar of*

*board meetings and other information. TVA also has a media relations staff available around the clock to respond to inquiries from the media and to provide information about TVA activities.*

*Live web broadcasts of TVA board meetings are available to the public, and archived downloads of previous meetings are available on the website.*

*TVA is also making increased use of webinars, or web-based news conferences, in order to include more reporters in news briefings while enabling them to avoid the time and dollar costs of travel.*

2. Report the extent to which the numbers of requests where records have been released in full and the numbers of requests where records have been released in part has changed from those numbers as reported in your previous year's Annual FOIA Report.

*TVA FOIA statistics show an increase from fiscal year 2009 to fiscal year 2010 in both full and partial disclosures of information in response to FOIA requests.*

	Full Grants	Partial Grants	Total
FY10	64	75	139
FY09	51	66	117

## II. Steps Taken to Ensure that Your Agency has an Effective System for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "application 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." Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. 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.

- a. Do FOIA professionals within your agency have sufficient IT support?

Yes.

- b. Describe how your agency's FOIA professionals interact with your Open Government Team.

*TVA's FOIA representatives are active members of the Open Government Team, which also includes a senior-level communications professional with oversight of the TVA website. The team communicates frequently via e-mail, phone and in person to address FOIA requests appropriately.*

- c. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to responding to FOIA requests.

*The FOIA officer and TVA's chief FOIA officer monitor requests and workload to maintain an adequate staff level. Additional support is available if needed. TVA's annual FOIA statistics indicate that adequate staff is devoted to responding to FOIA requests. In 2010, TVA processed more requests than the previous year yet reduced overall median response time by three days.*

- d. Describe any other steps your agency has undertaken to ensure that your FOIA systems operate efficiently and effectively.

*TVA's FOIA officer closely monitors the progress of information requests throughout the gathering process. The officer monitors and corresponds with field personnel responsible for providing information; monitors time required for review and channels requests into the appropriate processing track, requesting expedited review when warranted; and communicates regularly with those requesting records to clarify and modify requests as appropriate.*

### 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 to increase the amount of material that is available on your agency website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines.

- a. Has your agency added new material to your agency website since last year?

*TVA's website, [www.tva.com](http://www.tva.com), is updated continually to provide the public the latest information about the agency and its activities. TVA.com was redesigned in summer 2010 and has been recognized as one of the five best federal government websites by Congress.org of CQ-Roll Call Group. TVA.com offers a rich selection of TVA news, fact sheets and data of interest to the public.*

- b. What types of records have been posted?

*News releases, public meeting notices and links, open government xml data, reservoir information, air quality information, information related to the Kingston fossil plant ash spill recovery, employment information, retiree information, newsletters, fact sheets and many other records. A link for sending an e-mail to TVA is included, and notices of board meetings include a link for registering to speak at public listening sessions held in conjunction with board meetings.*

- c. Give examples of the types of records your agency now posts that used to be available only by making a FOIA request for them.

*Purchasing credit card holders list, TVA policy statements, TVA official mailing addresses, and FOIA/Privacy Act regulations and FOIA annual reports are now posted in the electronic FOIA reading room. Other examples are reservoir information, Office of the Inspector General semi-annual reports, organizational charts, TVA strategic plan, TVA bond information, presentations from board meetings, and cemetery relocation information.*

- d. What system do you have in place to routinely identify records that are appropriate for posting?

*Records are screened by a senior level staff member in the Communications division and then peer-reviewed before posting.*

- e. How do you utilize social media in disseminating information?

*TVA has had success using Twitter, Facebook and YouTube to disseminate many types of information.*

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

*As a routine part of communications activities, TVA looks for opportunities to disclose appropriate information in a timely manner via the website or other external medium. Often, communicating via the web offers faster, broader dissemination than traditional methods.*

#### IV. Steps Taken to Greater Utilize Technology

A key component of the President's 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 agencies reported widespread use of technology in handling FOIA requests. For this section of your Chief FOIA Officer Report for 2011, please answer the following more targeted questions:

1. Electronic receipt of FOIA requests:

- a. What proportion of the components within your agency which receive FOIA requests have the capability to receive such requests electronically?

*TVA has a centralized FOIA office that receives requests electronically.*

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

*Not applicable.*

- c. What methods does your agency use to receive requests electronically?

*TVA receives FOIA requests via e-mail, U.S. mail and fax.*

2. Electronic tracking of FOIA requests:

- a. What proportion of components within your agency which receive FOIA requests have the capability to track such requests electronically?

*TVA has a centralized FOIA office that tracks requests electronically via an electronic database tracking system.*

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

*Not applicable.*

- c. What methods does your agency use to track requests electronically?

*An electronic database that tracks requests through the use of individualized tracking numbers. The database has query and reporting capabilities.*

3. Electronic processing of FOIA requests:

- a. What proportion of components within your agency which receive FOIA requests have the capability to process such requests electronically?

*TVA has a centralized FOIA office that processes requests electronically.*

- b. To what extent have you increased the number of components doing so since the filing of your last Chief FOIA Officer Report?

*Not applicable.*

- c. What methods does your agency use to process requests electronically?

*TVA uses a dedicated e-mail address (foia@tva.gov); electronic FOIA database for tracking and reporting; scanning equipment to convert hard copy documents to electronic documents; and software to redact electronic documents.*

4. Electronic preparation of your Annual FOIA Report:

- a. What type of technology does your agency use to prepare your agency Annual FOIA Report, i.e., specify whether the technology is FOIA-specific or a generic data-processing system.

*TVA uses data processing software when preparing the agency's report.*

- b. If you are not satisfied with your existing system to prepare your Annual FOIA Report, describe the steps you have taken to increase your use of technology for next year.

*TVA Information Technology recently modified the database application to include additional information required for annual reporting and increased reporting capabilities.*

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

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs are an ongoing agency effort. The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. Section XII of your FOIA Annual Report includes figures that show your agency's backlog of pending requests and administrative appeals for the past two fiscal years. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In this section you should address the following elements.

1. If your agency has a backlog, report here whether that backlog is decreasing. That reduction should be measured in two ways. First, report whether the number of backlogged requests and backlogged administrative appeals that remain pending at the end of the fiscal year decreased or increased, and by how many, when compared with last fiscal year. Second, report whether your agency closed in Fiscal Year 2010 the ten oldest of those pending requests and appeals from Fiscal Year 2009, and if not, report how many of them your agency did close.

*TVA does not have a backlog of FOIA requests. TVA uses a multitrack processing system for FOIA requests provided for in the Freedom of Information Act, 5 USC § 552 (a)(6)(D). The appropriate track for each request is determined within 20 days of receipt. Generally, requests are processed in the order in which they were received. The majority of requests made to TVA are processed in track 1, the fastest.*

*TVA does not have a backlog of administrative appeals. Responses to administrative appeals are made within 20 business days of receipt. No administrative appeal was pending at the end of fiscal year 2009.*

*The 10 oldest pending requests at the end of fiscal year 2009 were all closed in fiscal year 2010.*

2. If there has not been a reduction in the backlog as measured by either of these metrics, describe why that has occurred. In doing so, answer the following questions and then include any other additional explanation:
  - a. Is the backlog increase a result of an increase in the number of incoming requests or appeals?

*Not applicable.*

- b. Is the backlog increase caused by a loss of staff?

*Not applicable.*

- c. Is the backlog increase caused by an increase in the complexity of the requests received?

*Not applicable.*

- d. What other causes, if any, contributed to the increase in backlog?

*Not applicable.*

3. Describe the steps your agency is taking to reduce any backlogs and to improve timeliness in responding to requests and administrative appeals. In doing so answer the following questions and then also include any other steps being taken to improve timeliness.

- a. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

*Yes. The FOIA officer is responsible for meeting annual performance goals on timeliness of FOIA responses, among others.*

- b. Has your agency increased its FOIA staffing?

*No.*

- c. Has your agency made IT improvements to increase timeliness?

*Yes. Increased use of scanning equipment to convert hard copy documents to electronic records and e-mailed responses to requests.*

- d. Has your agency Chief FOIA Officer been involved in overseeing your agency's capacity to process requests?

*Yes. The chief FOIA officer receives weekly reports of requests received and processed and is briefed by the FOIA officer on complex requests. TVA's general counsel provides briefings on changes and emerging issues that affect the FOIA request processing.*

### Spotlight on Success

Out of all the activities undertaken by your agency in this last year to increase transparency, describe here one success story that you would like to highlight as emblematic of your efforts.

*The initiative to proactively post information related to the Kingston ash spill cleanup (see section 1(f)) is an excellent highlight of the progress TVA is making to communicate openly with the public. TVA has advanced from being accused of withholding information to being recognized and praised for expeditiously posting information related to the ash spill and TVA's recovery effort, including scientific test results and analysis and cleanup information, photos and video footage. Moving forward, TVA continues its commitment to keeping those impacted by the ash spill informed.*