

2015 Chief FOIA Officer Report

Tennessee Valley Authority

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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.

FOIA Training:

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Answer: Yes.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Answer: 50%

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

Answer: TVA has a small FOIA Office (FOIA Officer and part-time legal and clerical support) located at TVA headquarters in Knoxville, Tennessee. This makes it more difficult and less cost effective to attend training based primarily in the Washington DC area. The American Society of Access Professionals (ASAP) now provides online webinars on FOIA topics. We will utilize this avenue in Fiscal Year 2015 to meet the training requirements. Attendance at DOJ or ASAP sponsored training will also be considered. We would like to see OIP offer webinars or computer-based training modules for FOIA personnel to help meet the training requirements.

Discretionary Releases:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

Answer: TVA conducts a thorough review of all records responsive to each FOIA request to determine whether full or partial disclosure is possible. TVA routinely makes discretionary releases of internal information if no specific foreseeable harm is identified.

5. During the reporting period did your agency make any discretionary releases of information?

Answer: Yes.

6. What exemptions would have covered the material released as a matter of discretion?

Answer: Exemption 2 and 5

7. Provide a narrative description, as well as some specific examples of the types of information that your agency released as a matter of discretion during the reporting year.

Answer: Examples include information related to: TVA's plans to install selective catalytic reduction systems and scrubbers at the Gallatin Fossil Plant; groundwater monitoring and data from all TVA fossil plants; a report of the strategic review of TVA requested by the Administration; information on TVA pension expense; TVA right-of-way clearing policies and practices; and inter-agency correspondence regarding a state road project.

8. If your agency was not able to make any discretionary releases of information, please explain why.

Answer: N/A

Other Initiatives:

9. If there are any other initiatives undertaken by your agency to ensure the presumption of openness is being applied, please describe them here.

Answer: TVA posts information of interest to stakeholders on its website daily during the business week. In addition, TVA's standard procedure on FOIA, which applies to all agency personnel, incorporates the President's January 21, 2009, memorandum instructing agencies to adopt a presumption in favor of disclosure of agency records.

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." It is essential that agencies effectively manage their FOIA program.

Processing Procedures:

1. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing?

Answer: Seven (7) days

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: N/A

Requester Services:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Answer: Yes.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester?

Answer: Yes. TVA provides the number of hours spent in search (and review time, if applicable) and the corresponding hourly rate; if duplication costs are assessed, the number of pages duplicated and the corresponding rate; and the amount of any other direct costs.

5. If estimated fees are particularly high, does your agency provide an explanation for the estimate to the requester?

Answer: Yes. TVA generally provides the estimated hours and rates by line item of the request and the reason why the fee is particularly high, such as the availability of the records, and any other contributing factors. TVA also offers to work with the requester to modify or clarify the request to reduce fees, where possible.

Other Initiatives:

6. If there are 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, eliminating redundancy, etc. please describe them here.

Answer: The FOIA Officer closely monitors the progress of information requests throughout the search and review process. This includes corresponding and counseling personnel responsible for providing the responsive records on FOIA disclosure standards; monitoring the time required for processing and properly placing the requests into the appropriate processing tracks; requesting expedited search and review, when warranted; and promptly communicating with requesters to clarify and modify requests as appropriate.

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.

Posting Material:

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

Answer: The TVA FOIA Office is part of TVA's Communications organization. As such, the FOIA Office is closely aligned with TVA's public and media relations staff. This alignment, along with knowledge of information being requested under FOIA, allows the FOIA Office to stay abreast of issues and information of interest to the public and to advocate for the proactive disclosure of such information. TVA also posts information as required by the FOIA's proactive disclosure provisions.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

Answer: In addition to the collaboration described under 1. of this section, the FOIA office regularly collaborates with legal staff in the TVA Office of the General Counsel who have a broad overview of all aspects of the agency's business. The FOIA office regularly communicates with TVA staff in the different areas of the business, enabling the FOIA office to stay abreast of emerging issues.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

Answer: The FOIA Officer closely monitors information requested under FOIA and identifies records that meet the requirement for online posting. TVA posts information of interest to stakeholders on its website daily during the business week.

4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

Answer: Some examples are:

- fuel cost information (<http://www.tva.gov/fuelcost/>)
- statements and news releases (<http://www.tva.com/news/index.htm>)
- SEC financial filings, and video archive and transcripts of quarterly financial calls with analysts and media (<http://www.snl.com/IRWebLinkX/docs.aspx?iid=4063363>)
- Quarterly progress reports on completion of Watts Bar 2 nuclear reactor (http://www.tva.gov/power/nuclear/wattsbar_unit2.htm)
- video streaming and video archive of TVA board meetings and public listening sessions (<http://www.tva.com/abouttva/board/meeting.htm>)
- air and water quality information (<http://www.tva.com/environment/air/index.htm>) (<http://www.tva.com/environment/water/index.htm>)
- lake levels (<http://www.tva.com/river/lakeinfo/index.htm>)
- power line rights of way (<http://www.tva.com/power/rightofway/index.htm>)

Other Initiatives:

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

Answer: The TVA Public Relations & Corporate Information group stays abreast of emerging issues of interest to stakeholders and works with other TVA organizations to make information available to the public in a timely and transparent manner.

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.

Making Material Posted Online More Useful:

1. 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?

Answer: Yes.

2. If yes, provide examples of such improvements.

Answer: TVA continues to make information available in multiple formats for its website users, including mobile users. TVA has a Lake Info app, an easy-to-use resource for operating on and around reservoirs and dams in the TVA region. In 2012, TVA added an interactive recreation map to the Lakes & Recreation section, which is the most popular section of the TVA website. In 2014, TVA began an overhaul of the TVA website in order to make search results more relevant and improve its overall usability, particularly for mobile users. TVA has several feedback mechanisms in place for website visitors to comment on all aspects of information posted on its website.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Answer: No.

4. If so, briefly explain what those challenges are.

Answer: None have been identified.

Use of Technology to Facilitate Processing of Requests:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Answer: Yes.

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.

Answer: N/A

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

Answer: Yes. We communicate with requesters by e-mail whenever possible. E-mail is the primary electronic means of communication with requesters.

8. If your agency does not communicate electronically with requesters as a default, are there are limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?

Answer: N/A.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section of TVA's Chief FOIA Officer Report 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, appeals, and consultations.

Simple Track: Section VII.A of TVA's Annual FOIA Report, entitled "FOIA Requests -- Response Time for All Processed Requests," includes figures that show TVA'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.

1. Does your agency utilize a separate track for simple requests?

Answer: Yes.

2. If so, for your agency overall, for Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Answer: Yes.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

Answer: 64% of requests processed were placed in the simple track.

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

Answer: N/A

Backlogs: Section XII.A of TVA's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year.

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with Fiscal Year 2013?

Answer: Yes.

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014.

Answer: 5%

BACKLOGGED APPEALS

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

Answer: TVA had no backlog of appeals in Fiscal Year 2014 or 2013.

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014.

Answer: N/A.

TEN OLDEST REQUESTS

In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: All but one of the ten oldest requests were closed in fiscal year 2014.

9. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report.

Answer: Nine of the ten oldest requests were closed in fiscal year 2014. The one backlogged request not closed in Fiscal Year 2014 is complex, involves a large volume of records and required the processing of multiple submitter notices. The requester has repeatedly refused to work with TVA to modify the scope of the request so that it could be completed sooner. Two interim responses were made during the processing of the request. Our goal is to complete the request in Fiscal Year 2015.

10. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester.

Answer: None.

TEN OLDEST APPEALS

11. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: TVA had no appeals pending at the end of fiscal year 2013.

12. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report.

Answer: N/A

TEN OLDEST CONSULTATIONS

13. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: Yes.

14. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report.

Answer: N/A

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

15. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

Answer: TVA has no backlogged appeals or consultations. The one backlogged request not closed in Fiscal Year 2014 is very broad in scope, involves a large volume of records and required the processing of multiple submitter notices. The requester has repeatedly rebuffed agency efforts to work with them so that the request could be completed sooner. Interim responses have been made.

If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: N/A.

16. If your agency did not close its ten oldest pending requests, appeals or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.

Answer: During 2014, we devoted additional resources to the FOIA office specifically to work on the oldest pending request and we continue to work diligently toward completion of that request. Our goal is to complete the request in Fiscal Year 2015.

Use of the FOIA's Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

Answer: No.

If so, please provide the total number of times exclusions were invoked.

Answer: N/A.