March 23, 2015

MEMORANDUM FOR KATHERINE ARCHULETA
Director

FROM: PATRICK E. McFARLAND   *Patrick E. McFarland*
              Inspector General

SUBJECT: Final Report on the Review of the U.S. Office of Personnel
              Management's Compliance with the Freedom of Information Act
              (Report No. 4K-RS-00-14-076)

This final memorandum report communicates the results of our review of the U.S. Office of Personnel Management's compliance with the Freedom of Information Act (FOIA). Our review was performed from September 2014 through November 2014. The review identified one area requiring improvement.

We issued our draft memorandum report to ███████████, Associate Chief Information Officer, on November 21, 2014. The Associate Chief Information Officer's comments on the draft memorandum report were considered in preparing this final memorandum report and are included as an Appendix. For specific details of the review findings, please refer to the "Results" section of this memorandum.

This memorandum has been issued by the OIG to OPM officials for resolution of the findings and recommendations contained herein. As part of this process, OPM may release the memorandum to authorized representatives of the audited party. Further release outside of OPM requires the advance approval of the OIG. Under section 8L of the Inspector General Act, the OIG makes redacted versions of its final reports available to the public on its webpage.

In accordance with the Office of Management and Budget (OMB) Circular A-50 and Public Law 103-355, all audit findings must be resolved (agreement reached on actions to be taken on reported findings and recommendations; or, in the event of disagreement, determination by the agency follow-up official that the matter is resolved) within six months of the date of this report. The OMB circular also requires that agency management officials provide a timely response to the final audit report indicating whether they agree or disagree with the audit findings and recommendations. Where management is in agreement, the response should include planned corrective actions and target dates for achieving them. If management disagrees, the response must include the basis in fact, law or regulation for the disagreement.

Background

The FOIA, 5 U.S.C. § 552, is the federal freedom of information law that allows for the full or partial disclosure of previously unreleased information and documents controlled by the U.S. Government. FOIA defines agency records subject to disclosure and outlines mandatory disclosure procedures.

OPM's FOIA Office within OPM's Office of the Chief Information Officer (OCIO) is responsible for oversight of the processing of Freedom of Information Act requested information. OPM's FOIA Office serves as the focal point for the intake and dissemination of FOIA requests to the appropriate OPM program office, and ensures that OPM program offices are compliant with FOIA guidelines, policies, and procedures.

OPM's FOIA Office has implemented a tracking system to keep track of incoming requests. The system provides a tracking number for each new FOIA request, tracks the processing of each request, alerts record owners of requests for records, and conducts other useful search functions. OPM also uses email to correspond with and receive correspondence from FOIA requesters. OPM's FOIA Office has developed a policy and flow chart for the processing of FOIA requests.

In addition, OPM's FOIA Office maintains a telephone hotline with two call lines, which allows requesters to obtain status information on their FOIA requests as well as seek answers to a variety of questions, including OPM FOIA processing and policy questions.

Objective

The objective of our review was to determine whether FOIA requests were processed in compliance with OPM's FOIA policies.

Scope and Methodology

The scope of our review covered the processing of FOIA requests during FY 2014 and OPM's FOIA Office policies and procedures as of September 19, 2014.

In planning and conducting our review, we obtained an understanding of the FOIA request process through reviews of documentation and interviews with representatives from OPM's FOIA Office and the OCIO.

Our review was not conducted in accordance with government auditing standards (GAS) as established by the Comptroller General of the United States. However, the nature and scope of the work performed was consistent with that expected of a GAS

audit. Since we consider this a review, the planning, documentation, reporting and quality control standards are not as stringent as in a GAS audit.

To accomplish the objective noted above, we:

- verified that FOIA information requests complied with the Electronic Freedom of Information Act amendments of 1996 (E-FOIA);
- examined FOIA information requests received by telephone; and
- evaluated the processing of FOIA information requests.

This review was limited to OPM's FOIA request process and was not a review of the program.

Results

Our analysis determined that OPM's FOIA Office has made great strides in recent years in documenting and tracking FOIA requests in a timely manner. However, we also found one area that provides an opportunity for improvement.

Compliance with the Electronic Freedom of Information Act Amendments of 1996

OPM's FOIA Office has a documented policy and flow chart for tracking and providing requested FOIA information. However, this policy does not discuss the requirement to post FOIA information online that has been requested multiple times (three or more requests). In addition, OPM's request tracking system does not identify the type of information requested. Consequently, OPM's FOIA Office cannot identify multiple requests that should be posted.

The Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) require that agencies provide online reading rooms for citizens to access records and, in the instance of three or more requests for certain FOIA information, that this information be posted in these rooms.

OPM's website has a reading room that OPM's FOIA Office can use to post responses to multiple requests; however, we found that the reading room is not used. OPM's FOIA Office officials stated that they take a proactive approach to posting information that they feel will be requested frequently, but we could not locate any such information.

Recommendation 1

We recommend that OPM's FOIA Office document a formal policy for handling multiple requests of the same information.

OPM's FOIA Office Response:

"We agree. The determination that there have been multiple requests for the same information is done manually. Policy will be developed once a tool is available."

Recommendation 2

We recommend that OPM's FOIA Office either utilize the existing reading room on the FOIA website and post information requested multiple times, or set up a new reading room online which is easily accessible to the public in accordance with E-FOIA.

OPM's FOIA Office Response:

"We agree. Putting records out on the reading room or on program office websites is ardently being promoted. We fully intend to use the existing reading room to place frequently requested records and information of public interest on the electronic reading room site. Since the FOIA program is not the originators of the records, we can only strongly encourage program offices to put frequently requested records or records that would be of public interest out on line. Promoting FOIA responses to be disclosed to the general public is still a 'work in progress.'"

Furthermore, OPM's FOIA Office provided links to OPM web sites where program offices placed requested information and information of public interest for FY 2014.

OIG Reply:

Although OPM's FOIA Office agrees with this recommendation and intends to use the existing reading room, they indicate that it is up to the program offices to post frequently requested information. We feel that OPM's FOIA Office needs to take the lead in ensuring that program offices post information through not only encouragement but oversight as well.

Recommendation 3

We recommend that OPM's FOIA Office start tracking types of FOIA requests to help determine whether they are multiple requests that must be posted to the reading room.

OPM's FOIA Office Response:

"We agree. Subject to appropriations, we will seek funding through IRB for an automated process in 2017."

Please contact me on 606-1200 if you have any questions regarding this final report, or your staff may wish to contact Michael R. Esser, Assistant Inspector General for Audits, on ███████ or ███████████, Lead Auditor, Quality Assurance Group, on ████████.

cc: Ann Marie Habershaw
    Chief of Staff

    Donna K. Seymour
    Chief Information Officer

    Mark W. Lambert
    Associate Director, Merit System Audit and Compliance

    ███████████

    Director, Internal Oversight and Compliance

    ███████████

    Associate Chief Information Officer

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Chief Information
Officer

MEMORANDUM

Date:	December 5, 2014
From:	███████ ACIO
To:	███████
Subject:	Responses to the Draft Report for the Review of the U.S. Office of Personnel Management's Compliance with the Freedom of Information Act (Report No. 4K-RS-00-14-076)

Recommendation 1
We recommend that OPM's FOIA Office document a formal policy for handling multiple requests.

Response:
We agree. The determination that there have been multiple requests for the same information is done manually. Policy will be developed once a tool is available. See response to Recommendation #3. At every opportunity, we have promoted Open Government and transparency using proactive disclosures to provide information to the public. A listing of FOIA activities promoting FOIA proactive disclosures within OPM are as follows:

10/13 - Overview of the Annual Report and Mention of Proactive/Discretionary Disclosures
3/14 – Proactive Disclosure Responses and Needs Referred to in the 2014 Chief FOIA Officer's Report
4/9-10/14 - OPM FOIA Training Program – DOJ Mentions Need for Proactive Disclosures
6/5/14 - FOIA Council Meeting, Notification and Slides - Need for Proactive Disclosures
7/17/14 - FOIA Council Meeting, Notification and Slides - Need for Proactive Disclosures
8/13/14 - FOIA Council Meeting, Notification and Slides - Emphasis on Proactive Disclosures
8/21/14 – FOIA Council Meeting, Notification and Slides - Need for Proactive Disclosures
9/4/14 - End of the Year Reporting Email Notification
9/30/14 - Second End of the Year Reporting Email Notification
5 - Meetings Between OGC, FOIA and program offices to discuss strategies on placing frequently requested items or items of public interest to be put out on the web.

Recommendation 2
We recommend that OPM's FOIA Office either utilize the existing reading room on the FOIA website and post information requested multiple times or set up a new reading room online with requested information posted which is easily accessible to the public in accordance with E-FOIA.
Response:
We agree. Putting records out on the reading room or on program office websites is ardently being promoted. We fully intend to use the existing reading room to place frequently requested records and information of public interest on the electronic reading room site. Since the FOIA program is not the originators of the records, we can only strongly encourage program offices to put frequently requested records or records that would be of public interest out on line. Promoting FOIA responses to be disclosed to the general public is still a "work in progress." Program offices have proactively placed requested information and information of public interest on their own OPM web sites for FY 2014, as follows:

OPM's Strategic Plan outlines the steps required to achieve agency goals (http://www.opm.gov/about-us/budget-performance/strategic-plans/2010-2015-strategic-plan.pdf).

OPM's annual Congressional Budget Justification shows how it plans to use the budgetary resources allocated by Congress to achieve its mission (http://www.opm.gov/about-us/budget-performance/budgets/#url=Congressional-Budget-Justification).

OPM's Agency Financial Report (AFR) provides an overview of financial performance and results to help the President, Congress, and the public assess our stewardship over the financial resources entrusted to us (http://www.opm.gov/about-us/budget-performance/performance/2012-agency-financial-report.pdf).

OPM's Annual Performance Report (APR) provides information on actual performance and progress towards achieving the goals and the Strategic Plan and performance budget (http://www.opm.gov/about-us/budget-performance/performance/2012-annual-report.pdf).

OPM's Summary of Performance and Financial Information (SPFI) provides key information from both the AFR and APR in a brief with user-friendly format http://www.opm.gov/about-us/budget-performance/performance/2012-summary.pdf).

Recommendation 3
We recommend that OPM's FOIA Office formally start tracking the type of request and determine if information has been requested three or more times and post this information.

Response:
We agree. Subject to appropriations, we will seek funding through IRB for an automated process in 2017.

DELETED BY OIG – NOT RELEVANT TO THE FINAL REPORT.