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Federal openness gets mixed reviews

BY JOSH HICKS

The Obama administration received mixed assessments on transparency levels this week, and lawmakers unveiled a draft bill meant to strengthen the Freedom of Information Act.

It's Sunshine Week in Washington — the annual open-government initiative, which ends Saturday.

The Center for Effective Government said Wednesday that the administration's rate of response to FOIA requests had improved in 2012 but that the percentage of replies with redacted information had grown.

"While processing has gone up, we see a record-setting rate of partial grantings," said Sean Moulton, the center's director of open-government policy.

Federal agencies averaged a C-minus for FOIA compliance in Cause of Action's analysis, also released Wednesday.

The group sent identical FOIA requests to 16 federal agencies in April. In its report, it said that one-quarter of the agencies provided no information and that the average response time for the others was 75 business days — more than double what the law calls for.

"Failure by these agencies to disclose documents is a failure in their service to the American taxpayers who fund them and rely on them to be accountable and transparent," said Daniel Epstein, the former Republican counsel for the House Oversight and Government Reform Committee.

The White House said the administration has improved government transparency.

"From the day he took office, the president committed his administration to work towards unprecedented openness in government," White House spokesman Eric Schultz said.

Obama's first presidential memo focused on open government, instructing all agencies and departments to "adopt a presumption in favor" of FOIA requests.

Schultz said that Obama was the first president to release White House visitor records and that his administration has answered more FOIA requests than the previous one — something the Center for Effective Government noted in its analysis.

The center also released a report on transparency last week, saying that the administration took "an impressive number" of steps to improve government transparency during its first term but that national security remains a "glaring exception."

The group said that the implementation of open-government policies has been inconsistent at the agency level.

Moulton said the problem with implementation stems from a lack of enforcement by the Office of Information Policy, a division of the Justice Department that oversees agency compliance.

"They certainly encourage agencies to do better, but what we really need is an enforcer that identifies the problems and has the responsibility and authority to fix them," he said. "That's supposed to be their role, and they're not really doing it."

In December, George Washington University's National Security Archive released the results of an audit that found more than half of all federal agencies had not updated their FOIA guidelines since Congress and President George W. Bush mandated certain changes in 2007. The group's follow-up report for Sunshine Week showed little progress by the Obama administration since December.

On Tuesday, the heads of the House Oversight and Government Reform Committee — Reps. Darrell Issa (R-Calif.) and Elijah E. Cummings (D-Md.) — proposed draft legislation to update the Freedom of Information Act.

The bill would require the administration to establish a single online portal for submitting and checking FOIA requests. It would also mandate that the chief FOIA officers of each agency meet regularly to review compliance with the law.

The proposal would also establish a presumption of openness for federal agencies, following suit with a memo Attorney General Eric H. Holder Jr. issued in 2009.

The draft legislation "strengthens FOIA, our most important open-government law, and makes clear that the government should operate with a presumption of openness and not one of secrecy," Cummings said.

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