

Tennessee Valley Authority (TVA)

Chief FOIA Officer Report

March 2012 to March 2013

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.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? **No.**
2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice? **Yes.**
3. Did your agency make any discretionary releases of otherwise exempt information? **Yes.**
4. What exemptions would have covered the information that was released as a matter of discretion? **Exemption 5.**
5. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion. **TVA conducts a thorough review of the records responsive to each request to determine whether full or partial disclosure is possible. TVA routinely makes discretionary releases of internal information if no foreseeable harm is identified. A significant example is TVA's disclosure of salaries for all TVA employees in response to a FOIA request from the news media. While TVA has routinely provided officers' salaries in response to media requests, it has been many years since salary information for all TVA employees has been available outside of the federal government.**
6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. **TVA's standard procedure on FOIA, which applies to all employees, 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."

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient.

1. Do FOIA professionals within your agency have sufficient IT support? **Yes.**
2. Do your FOIA professionals work with your agency's Open Government Team? **Yes.**
3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration? **Yes.**
4. Describe 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, streamlining consultations, eliminating redundancy, etc. **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 information on FOIA disclosure standards; monitoring the time required for processing and properly placing the requests into the appropriate processing tracks; requesting expedited review when warranted; and communicating with requesters to clarify and modify requests as appropriate. In 2011, TVA's compliance staff completed an assessment of the FOIA program, resulting in an overall good performance rating.

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.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013).

1. Provide examples of material that your agency has posted this past year. **Fuel cost information, statements and news releases, financial reports, job postings, video streaming and video archive of public meetings, air and water quality information, lake levels, fact sheets, power line right-of-way information, photos and videos of interest, Inspector General reports, and forms for public feedback.**
2. 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, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.? **Yes.**
3. If so, provide examples of such improvements. **TVA continues to make significant progress in providing information in multiple formats for its website users, including mobile users. In 2010, TVA developed the TVA Lake Info app, which is 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 addition, TVA has several feedback mechanisms in place for website visitors to comment on all aspects of the information posted.**
4. Describe any other steps taken to increase proactive disclosures at your agency. **Information is posted regularly to all TVA social media assets, including Facebook and Twitter. The information is posted proactively and transparently for information disclosure rather than for public relations or marketing.**

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. In 2010 and 2011, agencies reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency? **E-mailed requests are accepted.**
2. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency? **Not applicable.**

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically? **TVA provides a phone number on its website to call for the status of a FOIA request. This line is answered in person, when possible, during business hours.**
4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system. **Not applicable.**
5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request? **TVA provides estimated completion dates to requesters when asked.**
6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? **We have had no feedback from requesters that indicates online tracking is of interest to them.**

Use of technology to facilitate processing of requests:

7. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? **TVA has a multi-year project to modernize the enterprise content management system for the entire agency, which will result in improved document search and sharing capabilities.**
8. If so, describe the technological improvements being made. **The new enterprise content management system will provide improved indexing and retrieval options, including Google-type search capabilities.**

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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 and appeals.

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency'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.

- a. Does your agency utilize a separate track for simple requests? **Yes.**
 - b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer? **Yes.**
 - c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer? **Not applicable.**
1. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled

“Pending Requests – Ten Oldest Pending Requests,” and Section VI.C.(5), entitled “Ten Oldest Pending Administrative Appeals,” from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.

- a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011? **No.**
- b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011? **N/A. No backlog existed.**
- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011? **No.**
- d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011? **N/A. No backlog existed.**

2. If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests? **Yes. Multiple requests were received around the same time that are complex and involve a large volume of records that must be collected and reviewed from multiple organizations within TVA. Interim responses were provided in four cases. Responses in five cases have been completed.**
- b. Was the lack of a reduction in the request backlog caused by a loss of staff? **No.**
- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received? **Yes. Multiple requests were received around the same time that are complex and involve a large volume of records that must be collected and reviewed from multiple organizations within TVA. Interim responses were provided in four cases. Responses in five cases have been completed.**
- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals? **N/A. No backlog existed.**
 - b. Was the lack of a reduction in the appeal backlog caused by a loss of staff? **N/A. No backlog existed.**
 - c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received? **N/A. No backlog existed.**
 - d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog? **N/A. No backlog existed.**
3. OIP has issued **guidance** encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed. **Interim responses were provided in four cases.**

Use of FOIA’s Law Enforcement “Exclusions”

In order to increase transparency regarding the use of the FOIA’s statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to “treat the records as not

subject to the requirements of [the FOIA],” 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012? **No.**
2. If so, what was the total number of times exclusions were invoked? **N/A.**

Spotlight on Success

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas.

More than 9 million people in seven states use TVA electricity. To help ensure that TVA electricity is reliable, TVA works with about 50,000 land owners each year to maintain the rights of way for its transmission lines. The problem with vegetation and rights of way is that trees and power lines don’t mix; high voltage lines can arc to trees, structures or other objects nearby, causing fire, property damage, injury or costly power outages. In fact, power outages in the United States cause an estimated \$80 billion in damage to the economy each year. Today, utilities and their regulators are putting increased emphasis on the reliability of the nation’s power grid following the costly and deadly blackout in the northeast United States and Canada in 2003, which started with a tree. TVA is now maintaining its rights of way more consistently and no longer grants exceptions that previously allowed property owners to maintain taller trees by trimming them. Informing the public and gaining the buy-in of property owners on this topic is very challenging, and TVA is taking extra actions to inform the public about this issue.

- **In the past year, TVA has significantly increased its outreach to stakeholders and the amount and quality of information it makes available to the public on this issue. TVA’s avenues for providing information about vegetation maintenance on rights of way include the following:**
- **An enhanced website that features additional information and illustrations on vegetation management**
- **A video that’s available on the website and provided to property owners to explain the policy and demonstrate the risk trees pose to reliability**
- **Contact information for all TVA Right of Way Specialists and Managers**
- **A “door hanger” with a brochure and DVD that is provided as a leave-behind for property owners who are not available for face-to-face conversations**
- **Television and radio commercials that explain the issue**
- **Increased outreach to news media outlets to help convey information to the public**
- **Information for elected officials about the need for the work and property owner concerns**