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Description of document: **United States Department of the Interior guidance documents or emails concerning whether, how and by what means the Interior Department will carry out the intent of the President's Memorandum on Freedom of Information issued by the White House on January 21, 2009, 2009**

Requested date: 23-February-2009

Released date: 11-May-2010

Posted date: 02-August-2010

Date/date range of document: 22-January – 01-October-2009

Source of document: US Department of the Interior  
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# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240



IN REPLY REFER TO:  
7202.4-OS-2009-00230

May 11, 2010

**Via Certified Mail/Return Receipt (70993400001390800362)**

On February 23, 2009, you filed Freedom of Information Act (FOIA) request OS-2009-00230 with most/all Bureau FOIA Offices, seeking:

“Any guidance documents or emails concerning whether, how and by what means the Interior Department will carry out the intent of the President’s Memorandum on the Freedom of Information issued by the White House on January 21, 2009. You may omit from the scope of this request the email sent to your office on January 29th by Melanie Pustay of the Justice Department’s Office of Information and Privacy.”

On March 27, 2009, we acknowledged your request, informed you of your fee status as an “other-use” requester, and advised you that we were in the process of gathering responsive records from the various bureaus and offices that you had filed your request with.

We are writing to you today to provide you with our response to your request.

Enclosed, in response to your request, are electronic copies of all previously released responsive documents found (27 documents, totaling 76 pages in image form on 1 CD ROM disk).<sup>1</sup>

The FOIA fee for the processing of your request is \$80.00, calculated as follows:

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1. Electronic images are in PDF format.

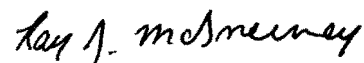
2 hours	Professional Search Time	@	\$9.75 per ¼ hour
1	CD ROM disk	@	\$ 2.00 per disk

However, insofar as your entitlements were sufficient to cover all applicable FOIA charges, there is no billable fee for the processing of this request.

This concludes our response to your requests.

If you have any questions regarding our response to your requests, you may contact Mr. Dele Awoniyi by phone at 202-208-5840, by fax at 202-219-2374, by e-mail at [osfoia@nbc.gov](mailto:osfoia@nbc.gov), or by mail at U.S. Department of the Interior, 1951 Constitution Avenue, N.W., MS 116-SIB, Washington, D.C. 20240. Within the Office of the Secretary, we are committed to providing you, our customer, with the highest quality of service possible.

Sincerely,



Ray J. McInerney  
Office of the Secretary  
FOIA Officer

## Enclosure

**PRIVACY ACT notice:** Before you choose to contact us, electronically, there are a few things you should know. The information you submit, including your electronic address, may be seen by various people. We will scan a copy of your request into our electronic OS FOIA administrative/image file. We will key the information that you provide to us into our electronic OS FOIA tracking file. We may share it with other individuals, both within and without the Department, involved in Freedom of Information Act administration. You may be contacted by any of these individuals, in other limited circumstances, including requests from Congress or private individuals, we may be required by law to disclose some of the information you submit. Also, e-mail is not necessarily secure against interception. If your communication is very sensitive, or includes personal information like your bank account, charge card, or social security number, you might want to send it by postal mail, instead.



**FOIA Memorandum Issued by President Obama - Jan. 21, 2009**

Ray J Mcinerney, Laura F Bell,  
Constance Downs, CSnyder, Diane  
Cooke, Johnny Hunt, Teri Jackson,  
Ginny Morgan, Deborah L Kimball,

**Alexandra Mallus** to: WChism, sandra\_evans, 01/22/2009 12:50 PM  
mildred\_washington, RMagno,  
Laura Cloud, Christina M Bartlett,  
James Langford, Thelma Harjo,  
EFerrall

Cc: Rosemary Melendy, Timothy E Murphy, Granada Fouke,  
DOI\_Bureau\_CIOs, Bruce Delaplaine

All,

Yesterday the President issued a memo to all Executive agencies and Departments establishing the FOIA policy for this Administration (see attached). In accordance with the memo, all agencies should adopt a presumption of disclosure in administering the FOIA and usher in a new era of openness. Further, the memo states that "in responding to requests under the FOIA, agencies should act promptly and in a spirit of cooperation, recognizing that agencies are servants of the public." The President also encourages agencies to take affirmative steps to make information public rather than wait to receive requests from the public.

The memo directs the Attorney General to issue guidance to agencies for implementing the new policy. Additionally, the memo directs the Director of OMB to update guidance to agencies to increase and improve information dissemination to the public, including through the use of technology.

As soon as we receive guidance from DOJ, we'll schedule a meeting to discuss the new FOIA policy. This office will be updating DOI's FOIA directives/regulations accordingly.

Please ensure that the attached is distributed to all of your bureau/office FOIA Contacts. Feel free to contact me if you have any questions--

[http://thefoiablog.typepad.com/the\\_foia\\_blog/2009/01/foia-executive-order.html](http://thefoiablog.typepad.com/the_foia_blog/2009/01/foia-executive-order.html)

alex

Alexandra Mallus  
DOI FOIA Officer  
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**FOIA Memorandum Issued by President Obama - Jan. 21, 2009**

**Alexandra Mallus** to: Sanjeev Bhagowalia

01/22/2009 12:53 PM

Colleen Coggins, Edwin McCeney, Marietta M Allen, Jerry  
Cc: Williams, Melissa Allen, Pamala R Quallich, Siddhartha  
Sharma, Rosemary Melendy

---

Sonny,

Yesterday the President issued a memo to all Executive agencies and Departments establishing the FOIA policy for this Administration (see attached). In accordance with the memo, all agencies should adopt a presumption of disclosure in administering the FOIA and usher in a new era of openness. Further, the memo states that "in responding to requests under the FOIA, agencies should act promptly and in a spirit of cooperation, recognizing that agencies are servants of the public." The President also encourages agencies to take affirmative steps to make information public rather than wait to receive requests from the public.

The memo directs the Attorney General to issue guidance to agencies for implementing the new policy. Additionally, the memo directs the Director of OMB to update guidance to agencies to increase and improve information dissemination to the public, including through the use of technology.

The memorandum has been distributed to all of the Bureau/Office FOIA Officers. As you may be aware, DOJ provides oversight and guidance for FOIA Government-wide. Once we receive guidance from DOJ, regarding implementation of the Administration's new FOIA policy, we'll update our directives/regulations accordingly. Let me know if you have any questions--

[http://thefoiablog.typepad.com/the\\_foia\\_blog/2009/01/foia-executive-order.html](http://thefoiablog.typepad.com/the_foia_blog/2009/01/foia-executive-order.html)

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**Fw: President Obama's FOIA Memorandum**

Ray J Mcinerney, Laura F Bell,  
Constance Downs, CSnyder, Diane  
Cooke, Johnny Hunt, Teri Jackson,  
Ginny Morgan, Deborah L Kimball,

**Alexandra Mallus** to: WChism, sandra\_evans, 01/27/2009 01:46 PM  
mildred\_washington, RMagno,  
Laura Cloud, Christina M Bartlett,  
James Langford, Thelma Harjo,  
Elisa Ferrall

Cc: Edwin McCeney, Colleen Coggins, Rosemary Melendy,  
Timothy E Murphy, Darrell R Strayhorn

All,

We'll be discussing the new Administration's FOIA policy at our monthly meeting on Feb. 10, 2009. As you may be aware, the President's memorandum (see [http://www.whitehouse.gov/the\\_press\\_office/FreedomofInformationAct/](http://www.whitehouse.gov/the_press_office/FreedomofInformationAct/) ) was effective immediately and supersedes former Attorney General Ashcroft's Memorandum on the FOIA, dated October 12, 2001. As a result, agency personnel should immediately begin to apply the presumption of disclosure to all decisions involving the FOIA, consistent with the President's memorandum.

Until DOJ provides additional guidance and training on the new FOIA policy, please consult with your Designated FOIA attorney before withholding any documents to see whether it is possible to make a discretionary release.

As always, feel free to contact Rosemary or me if you have any questions--thanks.

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----- Forwarded by Alexandra Mallus/PIR/OS/DOI on 01/26/2009 12:30 PM -----

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Date: 01/23/2009 04:30 PM  
 Subject: President Obama's FOIA Memorandum

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#### FOIA Professionals:

On January 21, 2009, President Obama signed the "Presidential Memorandum for the Heads of Executive Departments and Agencies on the Freedom of Information Act," which establishes a new policy for Executive Branch departments and agencies concerning disclosure and transparency. The President directed all agencies to administer the FOIA with a clear presumption in favor of disclosure, to resolve doubts in favor of openness, and to not withhold information based on "speculative or abstract fears." In addition, the President called on agencies to ensure that requests are responded to with "a spirit of cooperation," that disclosures are timely, and that modern technology is used to make information available to the public even before a request is made.

To implement these objectives, the President directed the Attorney General to issue new guidelines governing the FOIA. Those guidelines will reaffirm the Executive Branch's "commitment to accountability and transparency." The Department of Justice looks forward to issuing the guidelines directed by the President and to working directly with other departments and agencies to ensure that the President's goal of making his administration the most open and transparent in history is realized.

The President's memorandum was effective immediately and supersedes former Attorney General Ashcroft's Memorandum on the FOIA dated October 12, 2001. As a result, agency personnel should immediately begin to apply the presumption of disclosure to all decisions involving the FOIA, as the President has called for.

Once the new FOIA guidelines are issued by the Attorney General, OIP will conduct comprehensive training on those guidelines and provide additional advice and guidance to departments and agencies to ensure that our government is accountable and transparent, in keeping with the President's commitment.

Melanie Ann Pustay  
Director  
Office of Information and Privacy  
U.S. Department of Justice



**FOIA Meeting - Tuesday, February 10, 2009, 10:30 am - 11:30 pm, Rm. 3624-MIB**

Ray J Mcinerney, Laura F Bell,  
CSnyder, Diane Cooke, Johnny  
Hunt, Teri Jackson, Ginny Morgan,  
Deborah L Kimball, WChism,

**Alexandra Mallus** to:

sandra\_evans,  
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Laura Cloud, Christina M Bartlett,  
Rosemary Melendy, Melissa Allen,  
Rosemary Melendy, Thelma Harjo,  
James Langford

02/04/2009 03:34 PM

Cc: Pamala R Quallich, Edwin McCeney, Colleen Coggins

All.

A short meeting of the Bureau/Office FOIA Officers will be held on Tuesday, February 10, 2009, from 10:30 - 11:30 am, in Room 3624-MIB, to discuss the President's FOIA policy memo concerning disclosure and transparency (dated Jan. 21, 2009). Additionally, we will be discussing the FOIA CBT we are in the process of developing and will ask for your input regarding your bureau/office's training needs in FY09.

As discussed at our last meeting on January 13, a Privacy Act Workshop will follow immediately after the FOIA meeting..

If you are unable to attend the meeting, please ensure that someone is there to represent your bureau/office. Please let Pam or me know by Friday, Feb. 6, if you need to participate via teleconference. We look forward to seeing you all at the meeting--

Alexandra Mallus  
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## Open Government Directive - Feel Free to Offer Your Input

Alexandra Mallus, Rosemary Melendy,  
Ray J Mcinerney, Johnny Hunt, Teri  
Jackson, Deborah L Kimball, James  
Langford, Laura Cloud, Thelma Harjo,

**Melissa Allen** to: Laura F Bell, Constance Downs, 02/13/2009 11:04 AM  
Sandra Evans, Mildred Washington,  
Ginny Morgan, Snyder, Casey G, Diane  
Cooke, Christina M Bartlett, wchism,  
eferrall

Cc: Colleen Coggins, Siddhartha Sharma, Edwin McCeney

---

Hi Folks,

Next Friday at GSA, Beth Noveck who is leading the development of the Open Government Directive (referenced in the "Transparency" memo that the President issued on Jan. 21: [http://www.whitehouse.gov/the\\_press\\_office/TransparencyandOpenGovernment/](http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/)) will be on hand to talk to members of the Federal Web Council about the Directive and get their input. Feel free to pass along any comments and I will ensure they are heard at the meeting.

Thanks and have a great long weekend!

Melissa

Melissa M. Allen  
Office of the Chief Information Officer  
MIB 7444  
1849 C Street NW  
Washington, DC 20240  
(202) 208-3939

"The Constitution only guarantees the American people the right to pursue happiness. You have to catch it yourself." (Benjamin Franklin)



## HEADS UP! - ATTORNEY GENERAL ISSUES NEW FOIA GUIDELINES TO FAVOR DISCLOSURE AND TRANSPARENCY

Alexandra Mallus to: Ray J Mcinerney, Laura F Bell, Constance Downs, CGSnyder, Diane Cooke, Johnny Hunt, Teri Jackson, Ginny Morgan, Deborah L Kimball, WChism, sandra\_evans, mildred\_washington, RMagno, Laura Cloud, Christina M Bartlett, James Langford, Thelma Harjo, Elisa Ferrall, Rosemary Melendy, Allison Neblett

03/19/2009 04:48 PM

cc: Marietta M Allen, Colleen Coggins, Pamala R Quallich, Edwin McCeney, Siddhartha Sharma, Melissa Allen, Timothy E Murphy, Cindy Cafaro

Bcc: Alexandra Mallus

History

This message has been forwarded.

All,

The Attorney General released new guidelines today (attached) that direct agencies to apply a presumption of openness when administering the FOIA. The new guidelines, announced in a memo to heads of executive departments and agencies, build on the principles announced by President Obama on his first full day in office when he issued a presidential memorandum on the FOIA that called on agencies to "usher in a new era of open government." DOJ's Office of Information and Policy will be conducting training and providing guidance on the new FOIA guidelines to agency FOIA officers in order to maintain a comprehensive approach to greater government transparency. See DOJ press release below.

This office will be providing applicable guidance for DOI implementation within the Department in the near future.



FOIA Memo.pdf

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FOR IMMEDIATE RELEASE

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THURSDAY, MARCH 19, 2009

(202) 514-2007

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TDD (202) 514-1888

**ATTORNEY GENERAL ISSUES NEW FOIA GUIDELINES TO FAVOR DISCLOSURE AND TRANSPARENCY**

WASHINGTON – Attorney General Eric Holder issued comprehensive new Freedom of Information Act (FOIA) guidelines today that direct all executive branch departments and agencies to apply a presumption of openness when administering the FOIA. The new guidelines, announced in a memo to heads of executive departments and agencies, build on the principles announced by President Obama on his first full day in office when he issued a presidential memorandum on the FOIA that called on agencies to “usher in a new era of open government.” At that time, President Obama also instructed Attorney General Holder to issue new FOIA guidelines that reaffirm the government’s commitment to accountability and transparency. The memo rescinds the guidelines issued by the previous administration.

“By restoring the presumption of disclosure that is at the heart of the Freedom of Information Act, we are making a critical change that will restore the public’s ability to access information in a timely manner,” said Attorney General Holder. “The American people have the right to information about their government’s activities, and these new guidelines will ensure they are able to obtain that information under principles of openness and transparency.”

The new FOIA guidelines address both application of the presumption of disclosure and the effective administration of the FOIA across the government. As to the presumption of disclosure, the Attorney General directs agencies not to withhold records simply because they can technically do so. In his memo, the Attorney General encourages agencies to make discretionary disclosures of

records and to release records in part whenever they cannot be released in full.

The Attorney General also establishes a new standard for the defense of agency decisions to withhold records in response to a FOIA request. Now, the Department will defend a denial only if the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions, or disclosure is prohibited by law. Under the previous defensibility standard of the rules rescinded today, the Department had said it would defend a denial if the agency had a “sound legal basis” for its decision to withhold.

In addition to establishing criteria governing the presumption of disclosure, the Attorney General’s FOIA guidelines emphasize that agencies must be sure to have in place effective systems for responding to requests. In the memo, the Attorney General calls on each agency to be fully accountable for its administration of the FOIA.

The Attorney General’s memo also emphasizes that FOIA is the responsibility of everyone in each agency, and that in order to improve FOIA performance, agencies must address the key roles played by a broad range of personnel who work with each agency’s FOIA professionals. The memo highlights the key role played by agency Chief FOIA Officers who will now be reporting each year to the Department of Justice on their progress in improving FOIA administration. And, the Attorney General also directs FOIA professionals to work cooperatively with FOIA requesters and to anticipate interest in records before requests are made and to make requested records available promptly.

The Office of Information Policy will conduct training and provide guidance on the new FOIA guidelines to executive branch departments and agencies, as well as to interested groups, in order to maintain a comprehensive approach to greater government transparency.

Today’s memo rescinds the guidelines issued on Oct. 12, 2001, by former Attorney General John Ashcroft.

###



**Fw: HEADS UP! - ATTORNEY GENERAL ISSUES NEW FOIA GUIDELINES TO FAVOR DISCLOSURE AND TRANSPARENCY**

Alexandra Mallus to Colleen Coggins  
Cc: Pamala R Quallich  
Bcc: Alexandra Mallus

03/19/2009 04:56 PM

Colleen,

You may wish to send this to Sonny and Jerry as it mentions specific requirements for the agency's Chief FOIA Officer--thanks.

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----- Forwarded by Alexandra Mallus/PIR/OS/DOI on 03/19/2009 04:48 PM -----

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Cc: Marietta M Allen/PIR/OS/DOI@DOI, Colleen Coggins/PIR/OS/DOI@DOI, Pamala R Quallich/PIR/OS/DOI@DOI, Edwin McCeney/PIR/OS/DOI@DOI, Siddhartha Sharma/PIR/OS/DOI@DOI, Melissa Allen/PIR/OS/DOI@DOI, Timothy E Murphy/HQ/SOL/DOI@SOL, Cindy Cafaro/HQ/SOL/DOI@SOL  
Date: 03/19/2009 04:48 PM  
Subject: HEADS UP! - ATTORNEY GENERAL ISSUES NEW FOIA GUIDELINES TO FAVOR DISCLOSURE AND TRANSPARENCY

All,

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FOIA Memo.pdf

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###



**Fw: March 26 Conference - President Obama's and Attorney General Holder's Memoranda**

Ray J Mcinerney, Laura F Bell,  
Constance Downs, CGSnyder,  
Diane Cooke, Johnny Hunt, Teri  
Jackson, Ginny Morgan, Deborah  
L Kimball, WChism,  
**Alexandra Mallus** to: **sandra\_evans,** 03/23/2009 08:50 AM  
**mildred\_washington,** RMagno,  
Laura Cloud, Christina M Bartlett,  
James Langford, Thelma Harjo,  
Elisa Ferrall, Rosemary Melendy

Cc: Timothy E Murphy

All,

I encourage all of you to attend DOJ's March 26 conference on the Administration's new FOIA policy. As a reminder, you will need your Government ID to get into the Commerce Building--

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----- Forwarded by Alexandra Mallus/PIR/OS/DOI on 03/23/2009 08:32 AM -----

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<carol.ehrlich@fms.treas.gov>, "Femi, Judy " <femi@nmb.gov>, "Fina, Joan "  
<jfina@ftc.gov>, "Fisch, Fred " <ffisch@fdic.gov>, "FitzGerald, E. William  
" <Fitzgerald.Bill@pbgc.gov>, "Frangipane, Noelle "  
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<nneka.frye@ferc.gov>, "Garner, Stephanie D. " "  
 <stephanie.garner@eoc.gov>, "Gee, Patricia " "  
 <Patricia.Gee@fda.hhs.gov>, "Gottesman, Larry " "  
 <gottesman.larry@epa.gov>, "Gottry, Heather C. " "  
 <hgottry@neh.gov>, "Grafeld, Margaret P. " "  
 <grafeldmp@state.gov>, "Gressman, William E. " "  
 <wegressm@oge.gov>, "Gross, Jacqueline " "  
 <jhawkins@usitc.gov>, "Hackett, John F. " <Johnfh@nctc.gov>,  
 "Hair, Shoko " <shoko.hair@fcc.gov>, "Hanz,  
 Brenda " <bhanzl@fmc.gov>, "Hardy, Dionne  
 " <Dionne\_Hardy@omb.eop.gov>, "Harris, Talya"  
 <Talya.Harris@dhs.gov>, "Hawkins, Sharron " <Hawkins@amtrak.com>,  
 "Higgins, Kitty " <catherine.higgins@sba.gov>, "Hite, Jeanette  
 S. " <Jhite@samhsa.hhs.gov>, "Holland, A."  
 <aholland@cns.gov>, "Hollaway, Rebecca " "  
 <rebecca.a.hollaway@dhs.gov>, "Hollingsworth, Judi " "  
 <Judi.A.Hollingsworth@nasa.gov>, "Ingersoll, Janet " "  
 <janet.ingersoll@ihs.gov>, "Inman, Katie " "  
 <kathryn.inman@ntsb.gov>, "Jagadesan, Des " "  
 <djaga@opic.gov>, "Jeffcoat, Mary A." <mjeffcoat@neh.gov>, "Jensen, Leslie  
 " <ljensen@nsf.gov>, "Johnson, Clay " "  
 " <clay.johnson@va.gov>, "Kammer, Will " "  
 <William.Kammer@whs.mil>, "Kirkpatrick, Christopher " "  
 <Chris.Kirkpatrick@csb.gov>, "Korb, Timothy " "  
 <Timothy.Korb@mspb.gov>, "Krol, Jim " "  
 <james.krol@gsa.gov>, "Kurt, Christopher " <ckurt@osc.gov>,  
 "Laster, John " <john.laster@nara.gov>, "Lazaroff,  
 Joy " <Joy.Lazaroff@fda.hhs.gov>, "Lerner, A."  
 <ALerner@doc.gov>, "Link, Kendra " <klink@ustda.gov>,  
 "Livornese, John" <John.Livornese@va.gov>, "Low, Carol  
 " <Carol.R.Low@frb.gov>, "Luczynski, Kimberley " "  
 <kluczyns@omb.eop.gov>, "Luna, Stella " "  
 <Stella.Luna-1@nasa.gov>, "Marquis, Michael S. " "  
 <Michael.Marquis@cms.hhs.gov>, "Mason, Tony " "  
 <Tony.Mason@mail.va.gov>, "Matthews, Carol A. " "  
 <Carol.Matthews@hq.doe.gov>, "McConnell, Stephen " "  
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 <regina\_mccoy@nigc.gov>, "McCready, Andrew W. " "  
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 <amills@cpsc.gov>, "Newman, Annette" <newmana@nga.mil>, "Nichols, Russell A.  
 " <RAN2@nrc.gov>, "Noble, Jacqueline"  
 <Jacqueline.Noble@dcma.mil>, "Oleinick, Lew " "  
 <lewis.oleinick@dla.mil>, "Oliver, Ramona " "  
 <ramona.oliver@nara.gov>, "Papai, Catherine" <catherine.papai@dhs.gov>,  
 "Parsons, Bobbie " <Bparsons@doc.gov>, "Paskar, Joanne  
 " <jpaskar@usaid.gov>, "Patermaster, mMara"  
 <mara.patermaster@opm.gov>, "Patten, Mae R. " "  
 <mpatten@imls.gov>, "Payne, Latita M. " "  
 <Latita.Payne@usss.dhs.gov>, "Peppe, Margaret G. " "  
 <peppemg@state.gov>, "Petersen, Daniel " "  
 <Daniel\_R.\_Petersen@ondcp.eop.gov>, "Phillips, Pamela N. " "  
 <pnphill@nsa.gov>, "Plick, Joe " "  
 <plick.joseph@dol.gov>, "Ratchford, Jeanne " "  
 <jratchford@oftheo.gov>, "Ray, Kathy " "  
 <Kathy.Ray@dot.gov>, "Rosas, Christina E. " "  
 <crosas@fmshrc.gov>

Date: 03/20/2009 12:58 PM  
Subject: March 26 Conference - President Obama's and Attorney General Holder's Memoranda

---

**FOIA Professionals:**

**On March 26, 2009, the Office of Information Policy (OIP), Department of Justice, will host a government-wide training conference**

**to discuss President Obama's and Attorney General Holder's Memoranda which establish a new era of open government.**

**The details for this event are listed below:**

**When: March 26, 2009**  
**Where: Department of Commerce's Auditorium**

**14th and Constitution Avenue NW (main  
entrance on 14th Street)**

**Time: 10:00 - 12:00 noon**

**No pre-registration is required. However, you must present your Government ID to attend the training. Questions regarding the conference may be directed to OIP's Training Officer, Bertina Adams Cleveland, at (202) 616-5456.**





**Administration's New FOIA Policy**

**Alexandra Mallus** to: Jerry Williams

03/30/2009 12:41 PM

CC: Colleen Coggins, Pamala R Quallich, Rosemary Melendy,  
Sanjeev Bhagowalia

---

History: This message has been forwarded.

Jerry,

Attached for your review and information are bullets regarding the President and Attorney General's new FOIA policy which we'll be briefing you and Sonny on this Thursday. Also attached is a copy of the PowerPoint presentation DOJ provided to agency FOIA Officers on March 26 regarding the new policy.



Final.Obama Holder FOIA Memo MAP March2009.ppt Obama Policy.Briefing Sonny April 2 2009.doc

Alexandra Mallus  
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1849 C St. NW  
MS-7438-MIB  
Washington, DC 20240  
Phone: 202-208-5342  
Fax: 202-208-6867  
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## **President Obama's & Attorney General Holder's FOIA Memoranda**

### **This Administration's new FOIA policy:**

- **A democracy requires accountability, and accountability requires transparency**
- **Agencies will apply a presumption of openness when administering the FOIA**
  - In face of doubt, openness prevails
  - Fact that officials might be embarrassed, errors & failures revealed, and speculative/abstract fears should not come into play
  - Nondisclosure should not be based on effort to protect Government officials at expense of those they serve
  - DOJ will only defend agency withholdings when foreseeable harm to interests protected by an exemption exist, or release is prohibited by law
  - Discretionary releases mainly involve Exemptions 2 (trivial internal matters), 5 (deliberative, attorney-workproduct/client) and 7 (law enforcement/investigations)
- **Each agency fully accountable for its FOIA administration**
  - All employees responsible for FOIA, not just those interacting with requesters
  - Key roles played by Chief FOIA Officers and FOIA professionals
  - Eliminate unnecessary bureaucratic hurdles to access
  - Make timely responses to requests a priority
- **New era of open/transparent Government – agencies should**
  - Proactively disclose information before receiving requests, exponentially increasing information on Web
  - Establish mechanisms to identify records of interest to public to post on Web
  - Maximize use of technology to disclose information
  - Redesign systems to facilitate retrieval of information wanted by public
- **Chief FOIA Officer responsibilities (only reporting requirement is new)**
  - Monitors agency FOIA operations
  - Reports annually to Attorney General (DOJ guidance coming out this summer)
    - Likely topics: Improvements to agency FOIA operations; and Increases in proactive disclosures/Web postings
  - Recommends necessary changes in staffing, funding and personnel issues to improve agency FOIA administration



**FOIA Meeting - Wednesday, April 8, 2009, 12:00 - 1:30 pm, Room 3624-MIB**

Deborah L Kimball, Ginny Morgan,  
Sandra Evans, Mildred Washington,  
Laura F Bell, Ray J Mcinerney, Laura  
Cloud, Thelma Harjo, Johnny Hunt, Teri

Rosemary Melendy to: Jackson, wchism, eferrall, Christina M  
Bartlett, Diane Cooke, cgsnyder,  
RMagno, Constance Downs, James  
Langford, Timothy E Murphy, Darrell R  
Strayhorn

03/31/2009 02:41 PM

Alexandra Mallus, Melissa Allen, Edwin McCeney, Pamala R  
Quallich

History

This message has been forwarded.

All,

There will be a meeting for all Bureau/Office FOIA Officers on Wednesday, April 8, 2009, from 12:00 - 1:30 in Room 3624-MIB to discuss the Department of Justice's recent guidance on implementing the Administration's new FOIA policy. In honor of this being Ginny Morgan's last FOIA Officers' meeting, we will also be serving lunch for those of you who are interested.

Please let us know NLT Monday (April 6th) if you plan to attend and if you're interested in lunch (you're also welcome to bring your own lunch).

Also, please let us know by Monday if you plan to participate by teleconference (we will only have a limited number of lines for this purpose).

We hope to see you all at the meeting.

Thanks.

Rosemary Melendy  
Senior FOIA Program Officer  
OS/OCIO/IMD, MS: 7438 - MIB  
1849 C Street, NW  
Washington, DC 20240  
(202) 208-5412 - office  
(202) 501-2622 - fax



**DOJ Guidance on President Obama's FOIA Memoranda and Attorney General Holder's FOIA Guidelines**

Ray J Mcinerney, Laura F Bell,  
Constance Downs, CGSnyder,  
Diane Cooke, Johnny Hunt, Teri  
Jackson, Ginny Morgan, Deborah  
L Kimball, WChism,


**Alexandra Mallus** to: sandra\_evans, 04/22/2009 08:15 AM  
mildred\_washington, RMagno,  
Laura Cloud, Christina M Bartlett,  
James Langford, Thelma Harjo,  
Elisa Ferrall, Rosemary Melendy,  
Lance Purvis, Timothy E Murphy,  
DARRELL STRAYHORN  
Cc: Rosemary Melendy, Pamala R Quallich, Melissa Allen,  
Siddhartha Sharma, Edwin McCeney

All,

Last Friday, the Office of Information Policy, DOJ, issued additional guidance to agencies on President Obama's FOIA Memoranda and Attorney General Holder's FOIA Guidelines. You can view the article at <http://www.usdoj.gov/oip/foiapost/2009foiapost8.htm>.

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**Re: New Federal FOIA Policy**   
**Rosemary Melendy** to: Katelyn Sabochik  
Cc: Alexandra Mallus, Melissa Allen

05/19/2009 12:58 PM

Katelyn,

Here are the bullet points you asked for.



Talking Points for Wednesday.doc

I also wanted to let you know that Melissa Allen, the acting DOI Webmaster and valued member of the DOI FOIA Staff, will be coming to the meeting with me. Can you please let me know how many copies of the guidance material we should bring?

Also, have you had a chance to look at the draft email to the Bureau FOIA Officers regarding the Secretary's Recovery Act procedures yet? I've pasted the text of it here again (minus the Secretary's email, which it references). Please let us know if this conveys the correct instructions to the bureaus. Thanks! Rosemary

All,

In connection with the guidance in the Secretary's email below, bureaus and offices should keep the Office of Communications (OCO) informed of any FOIA requests you receive for records related to the American Recovery and Reinvestment Act.

Accordingly, please send copies of any new FOIA requests for DOI records that concern the use of American Recovery and Reinvestment Act funds to Katelyn Sabochik, Director of New Media, OS/OCO, (202) 208-7975. In some cases, the OCO may also need to see copies of the responsive documents and will notify you in such instances. Please also cc Alex and me when you send Katelyn copies of these requests.

If you have any questions, please feel free to contact Alex or me.

Thanks for your assistance in this matter.

Rosemary Melendy  
Senior FOIA Program Officer  
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Washington, DC 20240  
(202) 208-5412 - office  
(202) 501-2622 - fax

Katelyn Sabochik      Rosemary, Great! I think it would b...

05/18/2009 08:47:52 AM

From: Katelyn Sabochik/OCO/OS/DOI  
To: Rosemary Melendy/PIR/OS/DOI@DOI  
Cc: Alexandra Mallus/PIR/OS/DOI@DOI  
Date: 05/18/2009 08:47 AM  
Subject: Re: New Federal FOIA Policy

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Rosemary,

Great! I think it would be helpful to bring copies of the President's and Attorney General's memos. Also if you have a list of the names and contact information for FOIA officers in each bureau, that might be helpful as well since some people in this group might not know who their FOIA officers are. Finally, if you could send me just some bullet points of what you'd like to discuss with this group that I can give to my boss that would be great.

Thanks,

Katelyn

Katelyn Sabochik  
Director of New Media  
Office of the Secretary  
U.S. Department of the Interior  
1849 C Street, NW 6223  
Washington, DC 20240  
(202) 208-7975  
katelyn\_sabochik@ios.doi.gov

Rosemary Melendy	Katelyn, I'll be there. Please let m...	05/18/2009 08:37:44 AM
Katelyn Sabochik	Rosemary, I think it's fine to do it th...	05/18/2009 08:31:45 AM
Rosemary Melendy	Katelyn, I can attend this week if y...	05/18/2009 08:21:24 AM
Katelyn Sabochik	Alex, OK, that sounds good. If next...	05/15/2009 01:44:28 PM
Alexandra Mallus	Hi Katelyn, It was nice to meet you t...	05/15/2009 01:32:42 PM
Katelyn Sabochik	Rosemary, Thanks for sending this i...	05/15/2009 09:24:13 AM
Rosemary Melendy	Hi Katelyn, It was nice talking with...	05/12/2009 09:30:32 AM

- On his first full day in office, the President issued two memos to heads of Federal departments and agencies, one on the “Freedom of Information Act” (FOIA) and the other on “Transparency and Open Government.”
- These memos, together with the FOIA Guidelines subsequently issued by the Attorney General, ushered in a “new era of open Government.”
- As a result, we have:
  - ❖ New approaches for responding to FOIA requests and working with requesters
  - ❖ More limited DOJ standards for defending an agency that denies information in response to a FOIA request
  - ❖ New requirements to maximize the use of technology to inform the public about “what is known and done by their Government”
  - ❖ New requirements to proactively post information on-line, in advance/anticipation of FOIA requests
  - ❖ New focus on the broad range of agency personnel whose actions impact the FOIA (“FOIA Is Everyone’s Responsibility”)
  - ❖ New accountability requirements, particularly for Chief FOIA Officers who must report to DOJ annually
- What we need to do:
  - ❖ Set up a system for identifying documents the public will want and for posting them on the Web.
  - ❖ Establish procedures in key offices for routinely identifying in advance, or as records are finalized, those records that are good candidates for posting. (The more information that is made available on the Web, the greater is the potential to reduce the number of FOIA requests.)
  - ❖ Inform FOIA staff in the bureaus about what has been made available so they can notify requesters and head off new requests for the same or similar information
- Our office will be briefing the ITMC about these guidelines as well.
- We welcome your suggestions about what we areas we can improve on in the Department’s FOIA administration, as well as what other programs and offices we need to reach out to in order to establish a system for getting the right information posted on the Web.



**Meeting with Communications Directors**  
**Rosemary Melendy** to: Alexandra Mallus

05/26/2009 09:16 AM

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On May 20th, I addressed the weekly meeting of the Communications Directors concerning the Administration's new directive on pro-active disclosures. These meetings are hosted by Betsy Hildebrandt (OCO) and cover upcoming newsworthy events throughout DOI. At the end of the meeting I briefed the group on the new policy and provided the DOI list of FOIA Officers as well as copies of the President's and Attorney General's memoranda. The main points emphasized were that:

- OCIO would be working with them to establish a mechanism for posting information that the public wants on the Web without waiting for requests
- while the more discretionary exemptions would be interpreted more liberally under the new policy the other FOIA exemptions prohibiting disclosures, such as personal privacy, national security, certain law enforcement activities and statutory protectionn still applied, and
- the Chief FOIA Officer would have to report on progress made in this area at the end of the year

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**Meeting with the Bureau Communications Directors, Wed.,  
May 20, 2009**

**Alexandra Mallus** to: Dajuana Blackmon

05/19/2009 05:39 PM

Cc: Rosemary Melendy, Marietta M Allen, Colleen Coggins

---

Dajuana,

(Per Jerry's request at the staff meeting today)

On Wednesday, May 20, 2009, at 1:15 pm, Rosemary Melendy and Melissa Allen, DOI FOIA staff, will be briefing Katelyn Sabochik and Betsy Hildebrandt, Office of Communications (OCO), and the Bureau Communications Directors, on the Obama/Holder FOIA and Transparency and Open Government policy memoranda. OCIO will need to partner with the OCO and the bureaus to set up a system for identifying documents of interest to the public and for proactively posting them on the Web in advance/anticipation of FOIA requests..

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**ITMC Briefing, June 18, 2009 - Obama/Holder FOIA Policy Memoranda**

**Alexandra Mallus** to: Marietta M Allen  
Cc: Colleen Coggins, Rosemary Melendy

06/12/2009 03:15 PM

Marietta,

Per your request, my PowerPoint for the ITMC briefing is attached--



ITMC Briefing Obama.Holder FOIA Policy 6\_18\_09.ppt

Alexandra Mallus  
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----- Forwarded by Alexandra Mallus/PIR/OS/DOI on 06/12/2009 03:04 PM -----

From: Alexandra Mallus/PIR/OS/DOI  
To: Colleen Coggins/PIR/OS/DOI@DOI  
Cc: Rosemary Melendy/PIR/OS/DOI@DOI  
Date: 06/08/2009 10:21 AM  
Subject: ITMC Briefing - Obama/Holder FOIA Policy Memoranda

Colleen,

Attached is the PowerPoint for the ITMC Briefing on June 18 Re the Obama/Holder FOIA Policy Memoranda. Please review and let me know if you have any comments/changes.

Thanks--

[attachment "ITMC Briefing Obama.Holder FOIA Policy 5\_15\_09.ppt" deleted by Alexandra Mallus/PIR/OS/DOI]

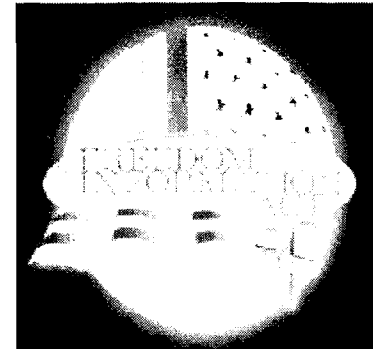
Alexandra Mallus  
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Email: alexandra\_mallus@ios.doi.gov

# DEPARTMENT OF THE INTERIOR

## Office of the Chief Information Officer

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### President Obama's and Attorney General Holder's FOIA Memoranda



Alexandra Mallus  
DOI FOIA Office  
June 18, 2009

# President Obama's Memorandum

- Issued on January 21, 2009, his first day in office
- FOIA plays a vital role in our democracy by providing accountability through transparency
- FOIA should be administered with a clear presumption of disclosure
- “In the face of doubt, openness prevails.”



AP/MCT

# FOIA – A Prodisclosure Statute

❖ Information should not be withheld merely because:

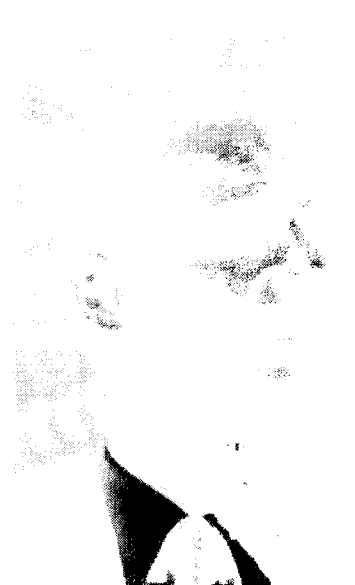
- Officials might be embarrassed,
- Errors and failures might be revealed, or
- Because of speculative or abstract fears.

❖ Nondisclosure should never be based on effort to protect interests of Government officials at expense of those they serve



# Attorney General Holder's Memorandum

- Issued March 19, 2009
- New era of open Government
- New presumption of openness
- Change in mind set: Ask “what can be released” rather than “what can be withheld.”



# **Attorney General Holder's Memorandum (Continued)**

- An agency should not withhold information simply because it may do so legally, i.e., because the records may be protected by a FOIA exemption
- Discretionary disclosures of information encouraged
- Partial disclosures should be made whenever possible if full disclosure is not feasible

# Attorney General Holder's Memorandum (Continued)

- DOJ will only defend agency withholdings if:
  - (1) agency reasonably foresees that disclosure would harm an interest protected by 1 of 9 statutory exemptions, or
  - (2) disclosure is prohibited by law.
- Similar to Clinton/Reno FOIA policy—"foreseeable harm standard"



# Discretionary Releases

- Such releases possible with FOIA exemptions 2, 5, 7, and 9
- Most applicable to exemption 5 which protects inter and intra-agency memoranda or letters (pre-decisional, deliberative-process material)
- Records protected by exemptions covering national security, personal privacy, commercial and financial information and information protected by statute, not generally subject to discretionary releases

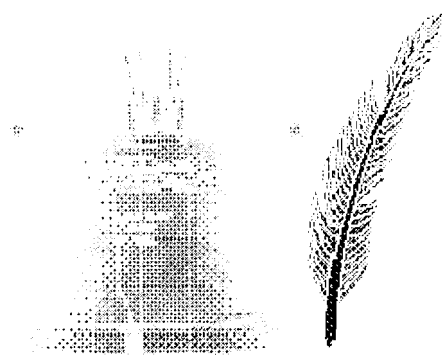
# FOIA is Everyone's Responsibility

- ❖ Each agency accountable for its administration of the FOIA
- ❖ All employees responsible for FOIA, not just FOIA Officers
- ❖ Key roles played by Chief FOIA Officer and FOIA professionals
- ❖ Eliminate unnecessary bureaucratic hurdles to access
- ❖ Make timely responses to requests a priority
- ❖ Reduce backlogs
- ❖ Work cooperatively with requesters



# Chief FOIA Officer Responsibilities

- Review and monitor agency's FOIA administration
- Report to DOJ annually on steps taken to improve FOIA operations and facilitate disclosure (new requirement)
- Recommend to Secretary changes and resources needed to improve FOIA implementation



# **New Era of Open & Transparent Government**

**“Agencies should use modern technology to inform citizens about what is known and done by their Government.”**

- Proactively disclose information of interest to the public
- Post information online in advance of any FOIA request
- Increase information available on the agency website
- Information about agency operations and decisions should be available online.
- Reduces the need for FOIA requests and may help reduce backlogs

## **New Era of Open/Transparent Government (Continued)**

- **Design/redesign systems to facilitate retrieval of information the public wants or may want in future**
- **Establish systems for identifying/retrieving such records**
- **Integrate information access into Design & Development**
- **Consider search features - public inquiries are expanding**
- **Maintain and organize paper and electronic records in a way that makes them easy to find**

# SUMMARY



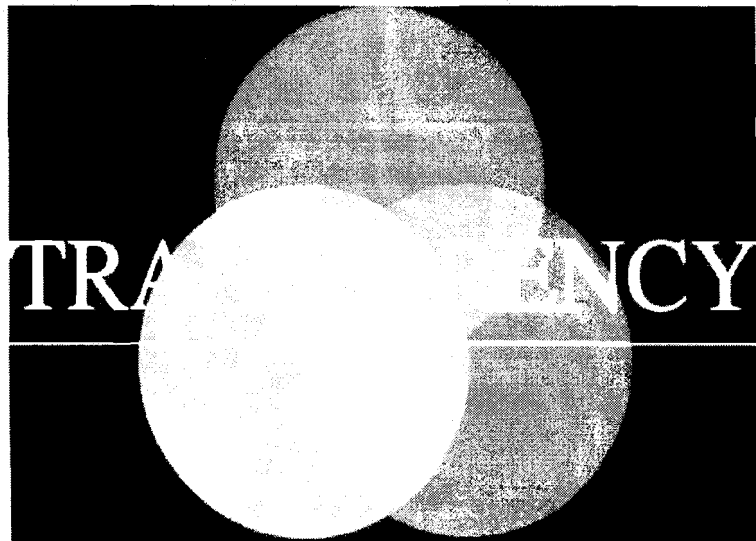
- 1) Promote accessibility, accountability, and openness
- 2) Demonstrate transparency

# SUMMARY

3. Work cooperatively with requesters and respond promptly to requests

4. Reduce/eliminate backlogs

- Discretionary disclosures
- Partial disclosures if full disclosure not possible







**FOIA Meeting - Tuesday, July 14, 2009, 1:30 - 3:30 pm., Rm. 3624-MIB**

Ray J Mcinerney, Laura F Bell,  
Constance Downs, CGSnyder,  
Diane Cooke, Johnny Hunt, Teri  
Jackson, Constance E Moragne,  
sandra\_evans,  
mildred\_washington, Laura Cloud,  
James Langford, Thelma Harjo,

**Alexandra Mallus** to: jtaitt, Rosemary Melendy, Lance 06/25/2009 01:58 PM

Purvis, Monique Hartgrove,  
rmagnojudd, Christina M Bartlett,  
Timothy E Murphy, Darrell  
Strayhorn, Joye L Durant,  
Deborah L Kimball, Dele B  
Awoniyi, psims, dwink, LaRima  
Lane

Rosemary Melendy, Siddhartha Sharma, Rosemary  
Cc: Melendy, Pamala R Quallich, Edwin McCeney, Colleen  
Coggins, Brandon A Coachman, Granada Fouke

Hi All,

There will be a meeting for all Bureau/Office FOIA Officers on Tuesday, July 14, 2009, from 1:30 - 3:30 pm in Room 3624-MIB to discuss the following:

- Backlog Reduction
- Attorney General Holder's FOIA policy guidance
- Changes to DOI's FOIA regulations
- EFTS Issues (Annual Report Mods & Remanded Appeals)
- FOIA Training
- FOIA CBT
- Miscellaneous Issues

As you know, in accordance with the AG's March 19, 2009, memo, our Chief FOIA Officer will have to report to DOJ each year on the steps DOI has taken to improve FOIA operations and facilitate disclosure of information. DOJ has not issued instructions for the report as yet. However, in anticipation of the report the Chief FOIA Officer will have to submit to DOJ, we want to do some brainstorming regarding how we can improve the program and transparency within the bureaus and DOI. Please canvas your FOIA folks in the field as well as your Office of Communications (Public Affairs) and come prepared to discuss new categories of information we may be able to make available to the public via the Internet as well as any suggestions for improving the FOIA process and the program overall. We need to work together as a team in order for this effort to be successful.

Please let Rosemary or me know by Friday, July 10, if you plan to participate by teleconference (we will only have a limited number of lines for this purpose).

We hope to see you all at the meeting.

Thanks.

alex

Alexandra Mallus  
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THE SECRETARY OF THE INTERIOR  
WASHINGTON  
JUL 02 2009

Memorandum

To: All DOI Employees  
From: Secretary *Ken Salazar*  
Subject: Freedom of Information Act Policy Guidance

During his first full day in office, President Obama issued a memorandum on the Freedom of Information Act (FOIA) calling it, "the most prominent expression of a profound national commitment to ensuring an open Government." The President called upon the Attorney General to promulgate new FOIA guidelines that reaffirm our commitment to accountability and transparency.

The Attorney General subsequently issued new FOIA guidelines on March 19, 2009, addressing:

- The presumption of openness that the President called for in his January 21, 2009, memorandum;
- The establishment of a new standard for defending agencies in FOIA cases (the foreseeable harm standard);
- The necessity for agencies to create and maintain an effective system for responding to requests; and
- The necessity for agencies to make information available proactively via the internet in order to achieve transparency and the "new era of open Government" that the President envisions.

The President's memorandum and the Attorney General's guidelines do not change the requirements of the statute, but rather how we think about the FOIA. The Attorney General emphasizes that agencies should adopt a presumption in favor of disclosure when making FOIA decisions. The Department will only withhold information when we reasonably can foresee that its release would harm an interest protected by a FOIA exemption (e.g., our national security or the privacy interests of individuals) or when disclosure is prohibited by statute. The President's and Attorney General's messages extend beyond the boundaries of the FOIA. They call upon agencies to aggressively increase proactive disclosures of information that is of interest to the public, thus vastly increasing information that is available on the internet. Our goal is to increase transparency.

In recognition of the vital role that the FOIA plays in our democracy in providing a means of accountability through transparency, these guidelines stress the need for all Executive Branch employees to be responsible for effective FOIA administration. Each of us must commit to

making responses to FOIA requests a priority in order to fulfill both the letter and the spirit of the law, including processing requests in a timely and complete manner in accordance with the requirements of the FOIA and the Department's FOIA regulation (43 CFR, Part 2). I am calling upon all employees to work collaboratively with the FOIA Office, Bureau/Office FOIA Officers, and the Office of Communications in this new era of open Government.

Please take a few minutes to review the President's and Attorney General's memoranda, which can be found on the Department's FOIA website's *FOIA Policy and Guidance* page at <http://www.doi.gov/foia/policy.html>.

If you have further questions regarding this memorandum or the Department's FOIA policy, please contact Ms. Alexandra Mallus, DOI FOIA Officer, at (202) 208-5342 or Ms. Rosemary Melendy, Senior FOIA Program Officer, at (202) 208-5412.

July 2, 2009

To: All DOI Employees

From: Secretary /s/

Subject: Freedom of Information Act Policy Guidance

During his first full day in office, President Obama issued a memorandum on the Freedom of Information Act (FOIA) calling it, “the most prominent expression of a profound national commitment to ensuring an open Government.” The President called upon the Attorney General to promulgate new FOIA guidelines that reaffirm our commitment to accountability and transparency.

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**ALL DOI Nationwide - Freedom of Information Act Policy Guidance**

Secretary of the Interior to:

07/08/2009 01:23 PM

Bcc: Rosemary Melendy

---

**(NOTE TO SUPERVISORS:** Please ensure that all employees without e-mail access receive a paper copy of this All-Employee distribution.)

Memorandum

July 2, 2009

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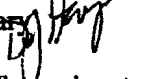


# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, DC 20240

AUG 07 2009

## INFORMATION MEMORANDUM FOR ASSISTANT SECRETARIES AND BUREAU HEADS

FROM: Deputy Secretary   
SUBJECT: Freedom of Information Act Policy Guidance

I want to draw your attention to Secretary Salazar's message of July 2, 2009, to all Department of the Interior employees clarifying how the Department will implement the Freedom of Information Act (FOIA). The Secretary's memorandum reflects the Administration's strong commitment to accountability and transparency and builds on the direction provided in President Obama's FOIA memorandum of January 21, 2009, and the new FOIA response guidelines issued by the Attorney General on March 19, 2009. It is vitally important that you commit to responding to FOIA requests as outlined by the Secretary. As the Secretary's memo states.

*"The President's memorandum and the Attorney General's guidelines do not change the requirements of the statute, but rather how we think about the FOIA. The Attorney General emphasizes that agencies should adopt a presumption in favor of disclosure when making FOIA decisions. The Department will only withhold information when we reasonably can foresee that its release would harm an interest protected by a FOIA exemption (e.g., our national security or the privacy interests of individuals) or when disclosure is prohibited by statute. The President's and Attorney General's messages extend beyond the boundaries of the FOIA. They call upon agencies to aggressively increase proactive disclosures of information that is of interest to the public, thus vastly increasing information that is available on the internet. Our goal is to increase transparency."*

I encourage you to read the President's January 21, 2009, memorandum, the Attorney General's March 19, 2009, guidelines, and the Secretary's memorandum to employees as you develop your processes for responding to FOIA requests in as proactive a manner as possible.

If you have further questions regarding these memoranda or the Department's FOIA policy, please contact Ms. Alexandra Mallus, the Department's FOIA Officer, at (202) 208-5342.

Thank you for your attention to this important issue.

6788

**DEPARTMENT OF THE INTERIOR**  
**Office of the Chief Information Officer**



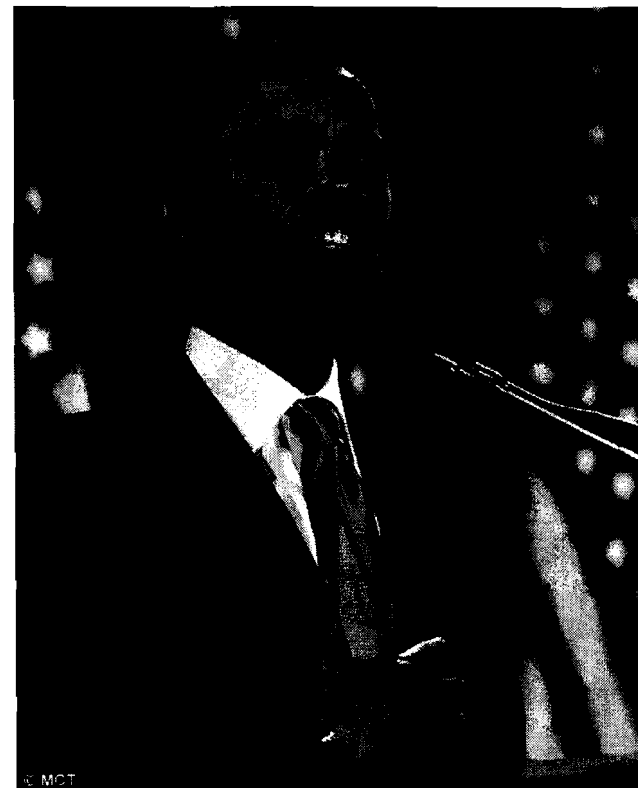
**President Obama's  
and  
Attorney General  
Holder's  
FOIA Memoranda**



**Alexandra Mallus**  
**NPS Training**  
**August 12, 2009**

# President Obama's Memorandum

- Issued on January 21, 2009, his first day in office
- FOIA plays a vital role in our democracy by providing accountability through transparency
- FOIA should be administered with a clear presumption of disclosure
- “In the face of doubt, openness prevails.”



# FOIA – A Prodisclosure Statute

❖ Information should not be withheld merely because:

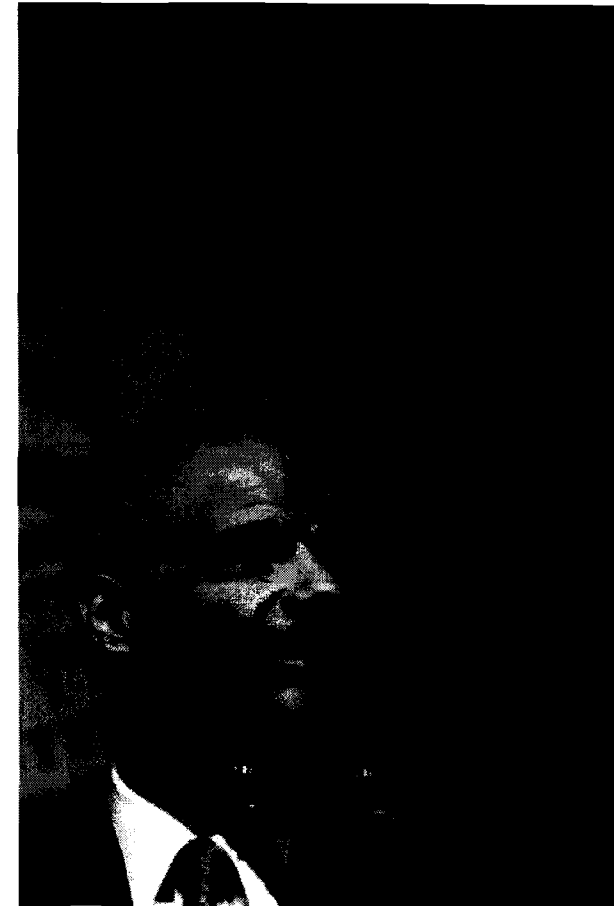
- Officials might be embarrassed,
- Errors and failures might be revealed, or
- Because of speculative or abstract fears.

❖ Nondisclosure should never be based on effort to protect interests of Government officials at expense of those they serve



# Attorney General Holder's Memorandum

- Issued March 19, 2009
- New era of open Government
- New presumption of openness
- Change in mind set: Ask “what can be released” rather than “what can be withheld.”



# **Attorney General Holder's Memorandum (Continued)**

- An agency should not withhold information simply because it may do so legally, i.e., because the records may be protected by a FOIA exemption
- Discretionary disclosures of information encouraged
- Partial disclosures should be made whenever possible if full disclosure is not feasible

# Attorney General Holder's Memorandum (Continued)

- DOJ will only defend agency withholdings if:
  - (1) agency reasonably foresees that disclosure would harm an interest protected by 1 of 9 statutory exemptions, or
  - (2) disclosure is prohibited by law.
- Similar to Clinton/Reno FOIA policy—"foreseeable harm standard"

# Discretionary Releases

- Such releases possible with FOIA exemptions 2, 5, 7, and 9
- Most applicable to exemption 5 which protects inter and intra-agency memoranda or letters (pre-decisional, deliberative-process material)
- Records protected by exemptions covering national security, personal privacy, commercial and financial information and information protected by statute, not generally subject to discretionary releases



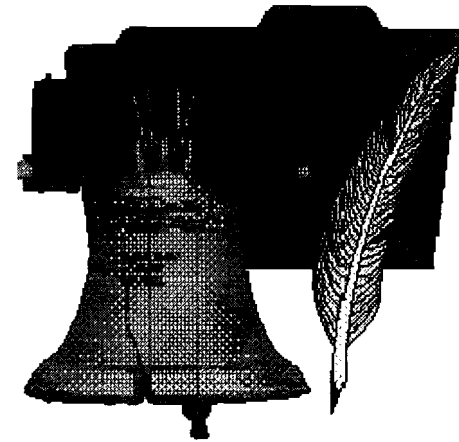
# FOIA is Everyone's Responsibility

- ❖ Each agency accountable for its administration of the FOIA
- ❖ All employees responsible for FOIA, not just FOIA Officers
- ❖ Key roles played by Chief FOIA Officer and FOIA professionals
- ❖ Eliminate unnecessary bureaucratic hurdles to access
- ❖ Make timely responses to requests a priority
- ❖ Reduce backlogs
- ❖ Work cooperatively with requesters



# Chief FOIA Officer Responsibilities

- Review and monitor agency's FOIA administration
- Report to DOJ annually on steps taken to improve FOIA operations and facilitate disclosure (new requirement)
- Recommend to Secretary changes and resources needed to improve FOIA implementation



# **New Era of Open & Transparent Government**

**Agencies should use modern technology to inform citizens about what is known and done by their Government.”**

- Proactively disclose information of interest to the public
- Post information online in advance of any FOIA request
- Increase information available on the agency website
- Information about agency operations and decisions should be available online.
- Reduces the need for FOIA requests and may help reduce backlogs

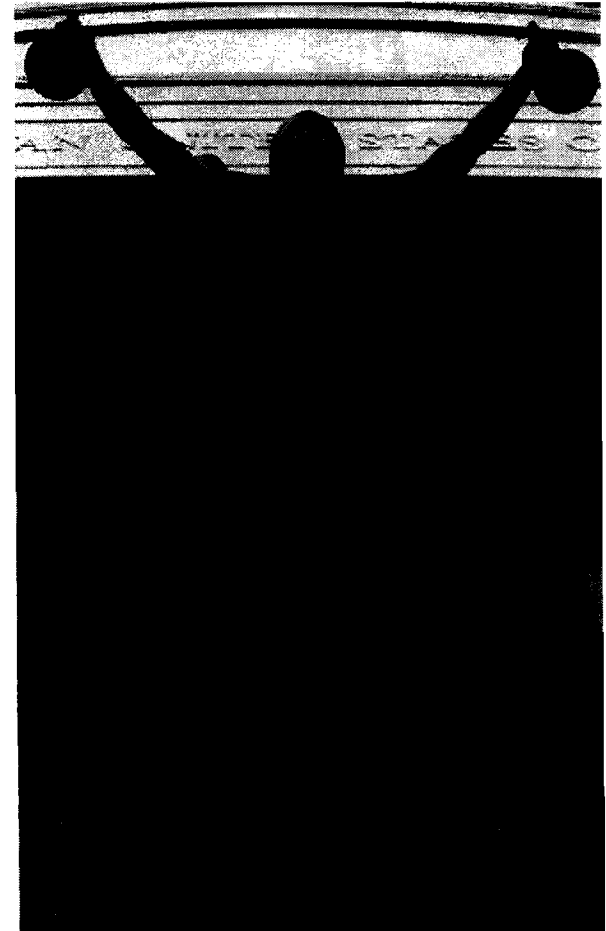
# **New Era of Open/Transparent Government (Continued)**

- **Design/redesign systems to facilitate retrieval of information the public wants or may want in future**
- **Establish systems for identifying/retrieving such records**
- **Integrate information access into Design & Development**
- **Consider search features - public inquiries are expanding**
- **Maintain and organize paper and electronic records in a way that makes them easy to find**

# SUMMARY

## ❖ Agencies will:

- 1) Promote accessibility, accountability, and openness
- 2) Demonstrate transparency

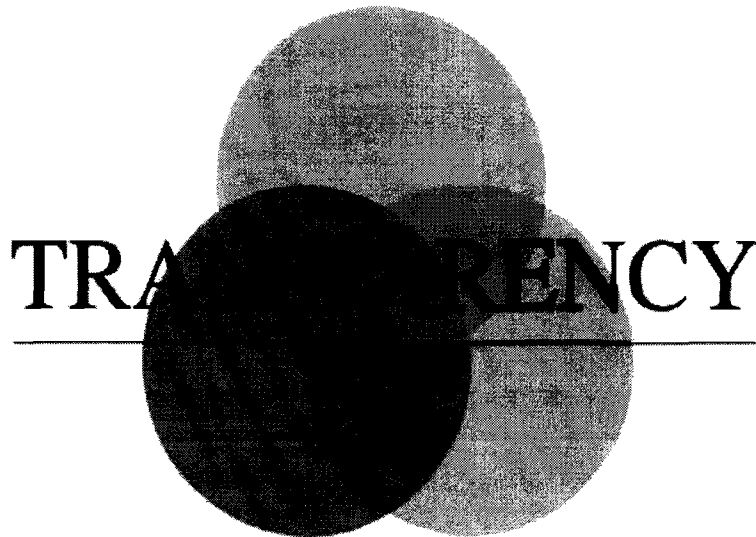


# SUMMARY

3. Work cooperatively with requesters and respond promptly to requests
  4. Reduce/eliminate backlogs
- ❖ **Presumption of disclosure applies to all FOIA decisions**
    - Discretionary disclosures
    - Partial disclosures if full disclosure not possible

# SUMMARY

**Our goal is to increase transparency—**



- **Extends beyond FOIA and requires CIOs, IT professionals, Records Officers, program offices & Communications Office to work collaboratively**
- **Commitment of all agency personnel required to achieve the “new era of open Government”**



## Discretionary Disclosures of Information Under the FOIA

Ray J Mcinerney, Laura F Bell,  
Ashanti Murphy-Jones, Constance  
Downs, CGSnyder, Charis Wilson,  
Johnny Hunt, Teri Jackson,  
Deborah.Kimball, DWink, jmeuret,  
**Alexandra Mallus** to: Joye L Durant, sandra\_evans, 10/01/2009 10:29 AM  
mildred\_washington, Laura Cloud,  
James Langford, Dorothy  
Abercrombie, Rosemary Melendy,  
Lance Purvis, Monique Hartgrove,  
rmagnojudd, Christina M Bartlett,  
Dawn Boswell, Shari M Baloch  
Rosemary Melendy, Darrell Strayhorn, Marietta M Allen,  
Cc: Melissa Allen, Siddhartha Sharma, Timothy E Murphy,  
LaRima Lane, Mona S Singleton, Edwin McCeney

---

Hi Everyone,

The Department's FOIA Appeals Officer has advised that many bureau FOIA personnel are not consulting with their Designated FOIA Attorneys prior to making discretionary disclosures of exempt information.

First and foremost, I would like to take this opportunity to remind everyone that **DOI bureaus/offices must consult with their Designated FOIA Attorneys and obtain their surname before making any discretionary releases of information.** This is to ensure that sensitive information, i.e., information the disclosure of which is likely to harm an interest protected by a FOIA exemption, is not released.

DOI's FOIA policy (see Chapter 5, paragraph 5.14 of DOI's FOIA Handbook (383 DM 15)), currently provides for discretionary releases of otherwise exempt information in certain instances. This policy is subject to Department of Justice policy, which traditionally the Attorney General issues for each Administration. As indicated in documents that I have distributed to you and discussed at our FOIA Officer meetings, President Obama's and Attorney General Holder's FOIA and Transparency policy memoranda of January 21 and March 19, 2009 (respectively) encourage agencies to make discretionary disclosures when it is possible to do so.

In addition to the requirement for Designated FOIA Attorneys to surname all decisions to make discretionary releases, please remember the following DOI policy:

- Document the FOIA case file to reflect the fact that you have considered the interests that could be implicated by disclosure and include the reasons why a discretionary release is appropriate.
- Advise the requester in the response that the requested information is exempt from disclosure under the FOIA, but that the bureau/office has decided to exercise discretion to release it.



- Information protected under exemptions 1, 3, and 4, and 6 and 7(C) (to the extent that such information is covered by the Privacy Act) normally cannot be released as a matter of discretion. Speak with your Designated FOIA Attorney if you have any doubts.
- Information covered by exemptions “low 2”, 5, and 9 are subject to discretionary release determinations under certain circumstances. Although technically it is possible to also consider documents covered by exemptions “high 2,” 6 and 7(C) (to the extent the information is not covered by the Privacy Act) for discretionary release, Departmental policy permits discretionary release of such information only in extremely rare circumstances.
- Decisions to make discretionary releases of information should be made on a case-by-case basis.
- Remember, not all DOI information is subject to discretionary disclosure.

I hope that the above clarifies the "discretionary disclosure" issue. Please ensure that you distribute this guidance to all FOIA personnel within your bureau/office.

As always, thank you for your continued cooperation and support. If you have any questions regarding this matter, please contact your Designated FOIA Attorney, Rosemary Melendy at 208-5412, OCIO, or me.

Alexandra Mallus  
DOI FOIA Officer  
Office of the Chief Information Officer  
1849 C St. NW  
MS-7456-MIB  
Washington, DC 20240  
Phone: 202-208-5342  
Fax: 202-208-6867  
Email: alexandra\_mallus@ios.doi.gov



To: Deborah L Kimball/GIO/USGS/DOI@USGS, Ginny Morgan/MMS/DOI@MMS, Sandra Evans/WDC/OIG/DOI@OIG, Mildred Washington/WDC/OIG/DOI@OIG, Laura F Bell/WO/BLM/DOI@BLM, Ray J Mcinerney/NBC/OS/DOI@DOI, Laura Cloud/DC/BIA/DOI@BIA, Thelma Harjo/DC/BIA/DOI@BIA, Johnny Hunt/ARL/R9/FWS/DOI@FWS, Teri Alexandra Mallus/PIR/OS/DOI@DOI, Melissa Allen/PIR/OS/DOI@DOI, Siddhartha Sharma/PIR/OS/DOI@DOI,  
From: DOJ Conference on the Administration's New FOIA Policy  
Date: Rosemary Melendy/PIR/OS/DOI - Thursday 03/26/2009 04:52 PM

All,

Attached is Melanie Pustay's (Director, Office of Information Policy, Department of Justice) slide presentation from today's conference providing guidance on the President's and Attorney General's memoranda regarding the Administration's new FOIA policy. As Alex has mentioned previously, this office will be providing applicable guidance for implementation within the Department in the near future. Please forward this presentation to your FOIA contacts in regional and field offices. We will also be posting it to the Department's FOIA Intranet site soon.

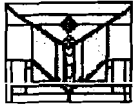
Thanks.

Rosemary



DOJ Presentation on Obama & Holder Memos 3-26-09.ppt

Rosemary Melendy  
Senior FOIA Program Officer  
OS/OCIO/IMD, MS: 7438 - MIB  
1849 C Street, NW  
Washington, DC 20240  
(202) 208-5412 - office  
(202) 501-2622 - fax



**Fw: ALL DOI Nationwide - Freedom of Information Act Policy Guidance**

**Sanjeev Bhagowalia** to: Alexandra Mallus, Rosemary Melendy, OS\_PIO\_SrStaff 07/22/2009 10:36 AM

FYI - my modifications included - Please update memorandum for signature with program issues (includes technical and business process resource), statistics, and links (URL) today.

Very Good job!

Thanks

Sanjeev "Sonny" Bhagowalia  
Chief Information Officer  
Office of the Secretary  
US Department of the Interior  
1849 C Street, NW, Room 7457, MS 7438  
Washington, DC 20240  
202-208-6194 (Phone)  
202-501-2360 (Fax)  
202-384-4381 (Blackberry)  
sanjeev\_bhagowalia@ios.doi.gov

----- Forwarded by Sanjeev Bhagowalia/PIR/OS/DOI on 07/22/2009 10:32 AM -----

From: Sanjeev Bhagowalia/PIR/OS/DOI  
To: Rhea Suh/PMB/OS/DOI@DOI  
Cc: Pam Haze/POB/OS/DOI@DOI, Betsy Hildebrandt/OCO/OS/DOI@DOI, Hilary C. Tompkins/HQ/SOL/DOI@SOL  
Date: 07/21/2009 09:17 PM  
Subject: Re: Fw: ALL DOI Nationwide - Freedom of Information Act Policy Guidance

Rhea,

Enclosed please find:

(1) A FOIA summary status memo we have prepared for your review to answer your questions. We are coordinating with OCO and SOL staff on any feedback as well. Their feedback can help us carefully incorporate any language for external dissemination to the environmental community;

(2) The DOI FOIA Fiscal Year (FY) 2008 Annual Report we submit to US Department of Justice (posted on the Internet)

(3) DOI's FOIA website - <http://www.doi.gov/foia/>

(4) A URL to a Everything FOIA Website with the President's Executive Order and all things FOIA ([http://thefoiablog.typepad.com/the\\_foia\\_blog/2009/01/foia-executive-order.html](http://thefoiablog.typepad.com/the_foia_blog/2009/01/foia-executive-order.html))

Please call if you have any questions or comments or would like to incorporate additional review by anyone outside PMB, OCO or SOL.

Thanks

Sanjeev "Sonny" Bhagowalia  
Chief Information Officer  
Office of the Secretary  
US Department of the Interior  
1849 C Street, NW, Room 7457, MS 7438  
Washington, DC 20240  
202-208-6194 (Phone)  
202-501-2360 (Fax)  
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sanjeev\_bhagowalia@ios.doi.gov



OCIO Memo to PMB.doc Final FOIAAnnRpt 12\_22\_08.doc

Rhea Suh

Folks- I have gotten some calls from t...

07/17/2009 05:24:15 PM

From: Rhea Suh/PMB/OS/DOI  
To: Sanjeev Bhagowalia/PIR/OS/DOI@DOI, Pam Haze/POB/OS/DOI@DOI  
Date: 07/17/2009 05:24 PM  
Subject: Fw: ALL DOI Nationwide - Freedom of Information Act Policy Guidance

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Folks-

I have gotten some calls from the environmental community wondering how DOI will respond to the new FOIA guidelines. DO we have anything beyond this memo from the Sec? Sonny, could you craft a letter to me describing what we are doing to ensure that we follow these new guidelines that you would in turn be comfortable having passed along to the environmental community? I am seeing this as basic communications but if there is something here that is more complicated, let me know.

Tx

Rhea Suh  
Assistant Secretary  
Policy, Management and Budget  
U.S. Department of the Interior  
1849 C Street NW, Room 5112  
Washington, DC 20240  
202-208-1927 (main)  
202--596-4845 (cell)  
202-513-0734 (fax)

----- Forwarded by Rhea Suh/PMB/OS/DOI on 07/17/2009 05:21 PM -----

From: Secretary of the Interior/SIO/OS/DOI  
To:  
Date: 07/08/2009 01:23 PM  
Subject: ALL DOI Nationwide - Freedom of Information Act Policy Guidance

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**(NOTE TO SUPERVISORS:** Please ensure that all employees without e-mail access receive a paper copy of this All-Employee distribution.)

Memorandum

## MEMORANDUM

TO: Rhea Suh, Assistant Secretary for Policy, Management and Budget

FROM: Sanjeev Bhagowalia, Chief Information Office, Chief FOIA Officer and Chief Privacy Officer

SUBJECT: Efforts and Plans to Comply with the President's and Attorney General's Memoranda on Freedom of Information Act and Transparency

REF: Secretary's Memorandum of July 2, 2009

In response to the President's and Attorney General's memoranda on FOIA and Transparency, my Office has taken a number of steps to bring DOI into compliance with the new policy guidance. More measures are being planned. Within the next two weeks, I would like to brief you personally on these issues at your earliest convenience.

Enclosed please find a quick overview of what we have done so far, and what we are planning to do to comply with the Obama Administration's new policy guidance.

- 1) ***Follow-up Memorandum to improve DOI FOIA Compliance*** My Office is currently drafting a memorandum for your signature to the heads of bureaus and offices which follows on the Secretary's memorandum and explains what these policies require of the Department. It will also alert them to the need to provide me, as DOI's Chief FOIA Officer, with background information in order to make recommendations to the Secretary on what changes to procedures and additional resources are needed to improve FOIA compliance throughout the Department. I will also need this information to prepare a report to the Department of Justice (at a due date to be announced by DOJ) on steps the Department has taken to improve FOIA operations and increase proactive disclosures on the Web.
- 2) ***Address the Administration's "foreseeable harm" standard for reviewing FOIA records*** To address the Administration's "foreseeable harm" standard for reviewing FOIA records, we have briefed all of the Bureau/Office FOIA Officers on the policy. They have been instructed to review records from the perspective of what can be disclosed vice what can be withheld. They have also been asked to work closely with their FOIA attorneys in SOL to ensure that they are correctly implementing the guidance with respect to information withheld under the discretionary FOIA exemptions (i.e., Exemptions 2, 5, 7, 8 and 9). Specifically, they are not to withhold such information unless they reasonably foresee that disclosure would harm an interest protected by an exemption, and they should document such decisions in the administrative record in the event of an appeal or lawsuit. We plan to provide bureaus and offices with more detailed written guidance on these changes to procedures in the near future.
- 3) ***Reduce FOIA Backlogs*** We have also encouraged bureaus and offices to continue to work on reducing and eliminating their FOIA backlogs, with particular focus on

completing their 10 oldest FOIA requests. This is an ongoing effort. As mentioned above, we plan to work with each bureau to determine what changes in procedures and/or additional resources may be needed to eliminate their backlogs.

- 4) ***Improved FOIA Business Process for More Proactive Disclosures*** With respect to improving transparency through increased proactive disclosures, my Office has been collaborating with the Office of Communications (OCO) and with the Bureau/Office FOIA Officers to come up with an improved business process for making proactive disclosures on the Web. This is an ongoing effort. Because this aspect of the Administration's policy guidance goes beyond the traditional realm of FOIA, we are looking at new ways of approaching disclosure. We are reaching out to our colleagues in other offices who interact with the public to get their insight and assistance in establishing mechanisms for the future that will help us improve transparency. We have briefed DOI Communications Officers on the new policies and are planning additional meetings with OCO to discover ways to increase proactive disclosures of information that the public wants or may want in the future in order to make DOI decisions more transparent.
  
- 5) ***Incorporate FOIA within Information Systems Lifecycle with Bureau and Office CIOs*** We have briefed and coordinated with the 13 Bureau and Office CIO's within DOI to (a) incorporate methods for identifying/retrieving records the public wants in Design & Development of systems; (b) consider redesigning existing systems to facilitate retrieval of such information when necessary; (c) collaborate with their FOIA and program offices to establish systems for identifying/retrieving such information; and (d) maintain and organize paper and electronic records in a way that makes them easy to find. We currently use an Electronic FOIA Tracking system (EFTS) for FOIA requests. We are investigating the feasibility of creating an automated FOIA business process workflow with document management capability. In this regard, we are in the process of querying our counterparts at other agencies to see if any have successfully developed web-based systems that we could also use or learn from.
  
- 6) ***Assist Whitehouse and OMB in Implementing President's Technology Agenda for an Open and Transparent Government*** Finally, as you may know, I have been working with OMB on three critical programs under the open and transparent Government which comport with the new FOIA guidelines: Recovery.gov; Data.gov and Federal Information Technology (IT) Dashboard. We have assisted OMB in
  - (a) ***Recovery.gov*** – we led and defined the Enterprise Architecture and detailed two key personnel, who lead the overall IT program for Recovery.gov;
  - (b) ***Data.gov*** – DOI co-leads the data.gov effort for OMB for the Federal Government with successful delivery of the capability on May 21 with 74 tools and data sets and which have recently gone to over 10 Million datasets in July, 2009. The participation from various DOI organizations to publish on data.gov has “increased public access to high value, machine readable datasets generated by the Executive Branch of the Federal Government.” DOI is one of a few leading

- Federal agencies with the largest contribution to-date (based on geospatial information) and second-largest in raw datasets and tools;
- (c) ***Federal IT Dashboard*** DOI has uploaded all 46 Major IT investments totaling \$ 868 M with 80% in Green Status and 20% in Yellow based on Cost and Schedule standards of OMB. We continue to work with DOI bureaus and offices on this important initiative to add the final CIO assessment by July 31, 2009 for an overall score which will be tracked by Whitehouse, OMB and the general public.

### Summary

DOI stakeholders (Bureau/Office FOIA personnel, CIOs, and the OCO) have been briefed on the Administration's new FOIA/Transparency policy guidance and what it means for DOI.

We have and will continue to collaborate with other bureaus and offices to establish systems for proactively disclosing information on the Web to make DOI decisions more transparent.

A memorandum to heads of DOI bureaus and offices outlining the requirements of the Administration's FOIA/Transparency policies and what they mean to DOI is being prepared for your signature.

We will seek input from bureaus and offices both to make recommendations to the Secretary with regard to the resources needed to improve DOI FOIA operations, and to prepare a report to the Department of Justice on DOI-wide efforts to improve FOIA operations and increase transparency.

We have and will continue to work with OMB on the Open and Transparent Government initiatives.