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. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

A Departmentwide FOIA Conference was held, and various major HHS organizational components also held various training events during the reporting period. The HHS FOIA Conference was organized under the auspices of the Office of the Secretary, Office of the Assistant Secretary for Public Affairs, in conjunction with senior FOIA staff of the various major operating divisions. It also involved participation of other executive branch agency representatives and the FOIA user community.

In addition to the Office of the Secretary, some OPDIVS that individually accomplished training include the National Institutes of Health (NIH), Program Support Center (PSC), Agency for Health Research Quality (AHRQ), Centers for Medicare & Medicaid Services (CMS), the Food and Drug Administration (FDA), Centers for Disease Control (CDC), Administration for Children and Families (ACF), Health Resources and Services Administration (HRSA), and the Indian Health Service (IHS).

The types of training covered a broad range, including single-day and multi-day training events, recurring conference calls, orientation sessions, coordinative meetings, and webinars. These sometimes included FOIA training for current and new employees. Some components posted training materials including slides and handouts on their FOIA intranet webpages.

The training covered a broad range of topics including basic FOIA principles, Departmental and OPDIV policy and processing practices and standards, procedural requirements, and transparency and openness. The various FOIA offices included updates and discussons on particular outstanding FOIA requests, lists of backlogged and closed requests, discussions as to methods of handling new requests, and ongoing interaction on openness and transparency.

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

Yes, staff members of most major FOIA offices throughout the Department attended some type of training, including such classes as FOIA for Attorneys and Access Professionals more advanced Department of Justice (DOJ) classes; and classes sponsored by the American Society of Access Professionals. The DOJ classes also focused on the Annual FOIA Report, the Chief FOIA Officer Report, and topics such as on the interface between the FOIA and the Privacy Act.

Budget considerations were a limiting factor in providing training for staff, such as at the CDC. However, the CDC, for example did host an Alternate Dispute Resolution training session (HHS Instructor) and paid for travel costs; all CDC FOIA staff attended.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

3. Did your agency make any discretionary releases of otherwise exempt information?

Yes, HHS FOIA offices did discretionarily release otherwise exempt material wherever possible if the release would not have caused harm. However, HHS FOIA offices have historically operated under the presumption of openness, with an approach of pro-disclosure in the review and release of documents.

4. What exemptions would have covered the information that was released as a matter of discretion?

The most typical type of material released as a matter of discretion is that which is covered by FOIA exemption (b)(5), which covers documentation of the deliberative process, and attorney work-product and attorney client material. Some organizations, such as the Office of the Inspector General, also reported release of other discretionarily-released material that would otherwise be covered by exemption (b)(2) (before last year's Supreme Court decision which restricted the coverage of that exemption), and exemption (b)(7).

5. Describe your agency's process to review records to determine whether discretionary releases are possible.

The HHS FOIA offices work similarly in the FOIA process. Program offices which may have records responsive to FOIA requests are requested to search for and locate records, and to immediately review responsive records for material that may be exempt from release before providing the records to the various FOIA offices. Managers are now also asked to perform an assessment, including a description of the harm that will come about should otherwise exempt material be released.

One major HHS operating division (OPDIV), CMS, reports that it has historically used Exemption 5 sparingly, relative to the number of requests it processes (CMS processed 51,665 initial requests in fiscal year 2010 and 53,328 initial requests in fiscal year 2011.)

Fiscal Year	Exemption 5
2010	84
2011	62
% Change	**-26.2%**

The CMS' use of exemption 5 reflects its sparing use of this exemption over the past nine years. Over that period, CMS has used Exemption 5 in only one percent of the instances where it uses an exemption. This limited use of Exemption 5 is consistent with the April 17, 2009, guidance issued by the Department of Justice, Office of Information Policy. The CMS FOIA office works with program staff to determine whether or not the release of the records in question has the potential to cause harm. Because the decision to use Exemption 5 is made by the CMS FOIA Officer or his delegate, CMS ensures that it does not routinely apply Exemption 5 to records that may otherwise have been withheld due to ―speculative or abstract fears."

The FDA's practice is that the FOIA staff in each component reviews records to determine whether discretionary release is possible. When necessary, the component FOIA staffs consult with the agency's Denials and Appeals Officer and/or the FDA's FOIA Officer in its main FOIA office. In addition, all denial recommendations (partial and full) are reviewed by its Denials and Appeals Officer, who works with the components to make any discretionary releases rather than denials, where appropriate.

In the NIH, requests for denial are reviewed by one of three staff members in the NIH FOIA Office, and then by the NIH FOIA Officer. Each of these reviews is conducted with the presumption that the information suggested for denial should be released. In addition, no information is withheld without a written statement from an appropriate NIH Program Official explaining in detail the harm that will result if the information is released.

In the PSC FOIA office, specialists review the information and determine what harm would occur to the if the information is released. In many cases, the deliberative back-and-forth among staff often concludes that the information is not harmful if disclosed, so in those cases the information is released.

In the CDC, a Subject Matter Expert (SME) review is undertaken and a statement of foreseeable harm must be addressed for the FOIA Officer to consider withholding material that may involve exemption (b)(5). The FOIA office staff members engage in conversations with the assigned SME when reviewing documents to ensure that the guiding principles of President Obama's FOIA Memorandum and Department of Justice guidance are followed. The FOIA Officer makes the final determination after careful consideration of the responsive documents and the statement of harm.

The OIG FOIA office reviews each record with an eye towards release, including an assessment of harm before release. If there is no articulable harm, the record is released.

In the IHS, discretionary releases are made in the spirit of transparency by conducting an initial review for exempt information. The FOIA staff consults with various program offices and components, and is able to make discretionary releases based after this consultation.

6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

Within HHS a variety of efforts are undertaken to ensure that the presumption of openness is being applied. Through various training events, as well as in everyday meetings and interactions with managers, officials, and other employees, continual reminders are emphasized as to the need to consider and treat materials with transparency and openness as guiding principles.

In HRSA, staff members carefully consider whether or not a document or set of documents has the potential of being released on a discretionary basis and whether it might be useful to have this information made available on the HRSA website. A concerted effort is made to improve communications with requestors. The HRSA FOIA staff members report efforts to be particularly dilligent about writing response letters in plain English so requestors have a clear idea as to why requested records were withheld and/or why sections of released records were redacted. The AHRQ posts as much of its records as possible, as it is felt that this helps decrease the need for FOIA requests.

The CMS FOIA office receives many requests for beneficiary-related information. In order to release this information, CMS requires appropriate authorizations to satisfy the requirements of the FOIA, Privacy Act and HIPAA. Incomplete or invalid authorizations are a major cause of CMS denials under Exemption 6. In order to address this issue, CMS has enhanced its FOIA web page by inserting a ―How ƫ" section with sample letters and authorization requirements at: http://www.cms.gov/FOIA/03_filehow.asp. In fiscal year 2011, there was a 35 percent decrease in CMS' use of Exemption 6 to protect beneficiary records compared to the number of such denials in fiscal year 2010.

The CMS datasets now account for about 80 percent of more than 100 datasets listed on the HHS-wide Open Government Web site (http://www.hhs.gov/open/datasets/index.html). Currently, CMS has made available a total of 124 datasets and tools on the http://www.data.gov Web site. The CMS engaged the entire agency, not just the FOIA Office, in responding to the Administration's openness and transparency initiative. For example, the CMS Administrator required all Center and Office Directors to identify three categories of frequently requested records for posting to the CMS web site in an effort to provide greater access to agency information. As a result of this exercise, over 300 links to data and information have been added to the CMS web site.

In addition to its FOIA-specific initiatives initiated or accelerated as a result of the Administration's openness and transparency initiative, CMS provides substantial access to the public using the Internet. The CMS web sites provide access to tens of thousands of documents (over six million pages) and are used by tens of millions of persons a year. The Medicare 1-800 number, the Medicare & You publication, and the Medicare Compare web sites at http://www.medicare.gov provide information that is received and used by about 50 million Medicare beneficiaries or their representatives every year. Hundreds of thousands of providers,

and tens of thousands of researchers, use information resources and systems provided through http://www.cms.hhs.gov. For example, the existing CMS web site contains easy to find information on CMS regulations. This feature generates tens of thousands of searches every year.

In this broader context of providing information to the public, CMS has used many additional means to proactively provide information to the public. Therefore, although the FOIA mechanism for obtaining CMS information remains a key access mechanism for government information, it is now only one of many ways the public can obtain information regarding the agency.

The FDA created a Transparency Task Force in 2009 to develop recommendations to make useful and understandable information about FDA activities and decisionmaking, more readily available to the public in a timely manner and in a user-friendly format. Most recently, On October 3, 2011, FDA released a report that contains eight draft proposals to improve access to FDA's compliance and enforcement data. The FDA developed these draft proposals after meeting with partners at the Environmental Protection Agency (EPA) and the Department of Labor (DOL), both of which have model compliance/enforcement data websites. This report was triggered by an FDA memorandum to the Department of Health and Human Services (HHS) regarding President Obama's Memorandum on Regulatory Compliance. That document called for agencies to make publicly available compliance information more easily accessible, downloadable, and searchable online. In its memorandum, the committed to meeting with EPA and DOL to learn from their experiences. Additional information about the Task Force is available at the agency's transparency website, at http://www.fda.gov/AboutFDA/Transparency/TransparencyInitiative/default.htm. The FDA component offices continually review internal disclosure guidelines to determine whether additional categories of information can be released, in light of the presumption of openness, and have trained staff accordingly on respective changes.

The ACF's FOIA Officer developed a presentation on proactive disclosures, provided to program staff, and is posted on the ACF intranet. The ACF is strongly committed to implementing the President's initiatives on openness and transparency. As such, its FOIA Office has taken steps to improve timeliness in responding to its FOIA requests and to reduce its backlog.

The NIH reports that it never retreated from the presumption of openness reflected in the previous Reno FOIA Memorandum and, therefore, did not need to implement major adjustments to its internal guidance or launch new initiatives. However, since the issuance of the new FOIA Guidelines, the NIH FOIA Officer has given numerous formal and informal presentations, talks, and training sessions. The NIH FOIA Officer reviews recent developments in FOIA, including the President's memorandum and the new FOIA Guidelines concerning the presumption of openness. In addition, all requests for denial are processed with the goal of releasing as much information as possible.

To ensure that a presumption of openness is being applied, the PSC FOIA office examines any initial FOIA request and FOIA appeal that has information that could be withheld pursuant to

FOIA exemption 5, and re-reviews it with an eye toward partial or full release. In the OIG, training and advice are provided to management officials and program staff regarding discretionary releases.

In Section V.B.(1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests" the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

7. Did your agency have an increase in the number of responses where records were released in full?

Overall, the HHS experienced a major increase in the number of responses where records were released in full, including the Office of the Secretary (OS), the SAMHSA, AHRQ, NIH, OIG AND HIS. The CMS achieved the largest such increase, from 24,742 to 33,856.

In HRSA, the number of full disclosures decreased from 278 to 262. However, as the number of requests dropped from 369 in 2010 to 332 in 2010, the percentage of full disclosures actually increased from 75% to 79%.

The FDA released 7,467 responses in full compared with 7,281 last year. In addition, the FDA issued 76 full denials in FY2011, down from 98 in FY2010, a reduction of almost 25%.

8. Did your agency have an increase in the number of responses where records were released in part?

Overall, the HHS experienced a significant increase in the number of FOIA responses for which records were released in part, from 1,943 to 2,083.

The great majority of major operating divisions, including the OS, ACF, AHRQ, CMS, FDA, OIG, and OASH/PSC, achieved increases. Of those which experienced a decrease in partial releases, they were primarily modest declines.

The largest increases in the responses with partially released records were FDA's, from 130 to 170, and CMS, from 731 to 789. While the NIH experienced a decrease in the number of partially released records, the the percentage of responses with partially released records compared to total responses remained the same because NIH received and processed fewer requests in 2011 than in 2010.

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."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

The HHS is very decentralized and diverse, and the FOIA office of each component receives IT support from its own organizational and managerial support structure. Generally, the various components receive sufficient IT support.

The Office of the Secretary FOIA office successfully implemented a new FOIA tracking system that provides greater tracking and reporting functionalities and capabilities, in cooperation with the Department of the Treasury.

The HRSA is in the process of phasing in a computer-based FOIA system using the SWIFT system developed for CMS. The HRSA had been solely a black marker/correction-tape/―hard copy only" operation. The HRSA expects to be completely electronic (with some exceptions for older records) by April 2012, and FY 2013 will be its first full year as a fully-computerized operation.

The SAMHSA has seen an up-surge of IT suppor last year. The IT staff members have been tireless in working with the SAMHSA FOIA Officer in standing up systems that have increased its productivity.

The AHRQ FOIA office and its web team is a part of Office of Communications and Knowledge Transfer (OCKT). Therefore, the FOIA office communicates directly with its web team to have information posted on its FOIA web age.

The CMS reports that its implementation of SWIFT, the automated tracking system, streamlines or eliminates much of the administrative aspects involved in disclosure analysis and request management. It allows CMS to move documents related to FOIA requests electronically among its headquarters and regional offices. Correspondence templates, automated fee calculations and electronic transmission of cases throughout the CMS FOIA network contributes to a reduction in processing time, thereby improving timeliness in responding to requests. SWIFT contains a tool for the electronic compilation of some of the statistics required to prepare the Annual FOIA Report. The CMS headquarters' FOIA office utilizes automated redacton software to create files in Portable Document Format (PDF), in order to electronically review and redact FOIA-requested records. This software also collects metadata which CMS uses during the preparation of the Annual FOIA Report.

Staff members from each of the FDA's components met with IT personnel to discuss challenges. The FDA is currently evaluating the results of these discussions, and will make necessary IT

enhancements based on funds available. Given limited funding, additional IT support may be needed to help improve efficiency in the future.

The ACF's Office of Information Services (OIS) has provided full business analysis support by establishing a coordinated approach in response to FOIA requirements involving automatic updates, its FOIA Library, and ―Record in Demand\FOIA Requests" (creating an electronic request form in the FOIA Library, and automating the FOIA internal process).

The OIG processes and releases all records electronically. Paper copies must be expressly requested or responsive records will be emailed, copied to a CD, or sent through a large file delivery server.

The IHS reports that its FOIA staff continues to have full support from its supporting IT office and maintains a relationship with the IT staff in order to provide the public with FOIA program website updates, providing useful information in a timely manner.

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

The HHS Chief FOIA Officer's contacts and interactions with HHS FOIA staff significantly increased last year. This took place in various ways, including continued support for and sponsorship of the Department's FOIA Conference, held in October 2011. He sponsored and attended HHS FOIA Officer meetings with HHS' principal HHS FOIA Officers, and issued a new Departmentwide memoranda in support of HHS' FOIA program.

3. Do your FOIA professionals work with your agency's Open Government Team?

The various HHS FOIA staff members work with HHS Open Government Team, although the nature of the interaction varies from component to component. The primary interaction across HHS concerns coordination with program managers and various web team staff to encourage or otherwise arrange for the posting of materials that are the subject of multiple FOIA requests, that may be of a continuing interest to the public, and that otherwise are of value to researchers and major elements of the public, especially such that it will shed light on the operations and activities of the Governemnt.

Within HRSA, one of the team members of Open Government is part of the HRSA's Office of Communications, in which the the FOIA function is concurrently assigned, which enhances the ability for discussions on various topics involving Open Government.

The CMS, in response to the President's Open Government and Transparency Initiative, realigned the Freedom of Information Office and the Division of Information and Advisory Committee Management, in order to establish a new group, the Openness, Transparency and Accountability Group. The realignment of these functions brings together core knowledge and experience in implementing the FOIA with those with knowledge of and skill in the use of information technology.

The FDA's FOIA professionals work with the agency's Open Government Team as necessary. The list of FOIA contacts in each component is available on our intranet FOIA webpage, so that

the appropriate individuals can be included in Open Government discussions. The CDC FOIA office reports to the CDC Chief Information Officer, who is responsible for the agency's Open Government initiative, which enhances interaction among the staff.

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

Each major component within HHS, as a decentralized agency, is primarily responsible for the assessment of the need for, allocation of, and funding for, FOIA staff. In recent years, staff have been added to a number of FOIA offices, where workload has increased.

In HRSA, a full-time FOIA Specialist was added, increasing the number of FOIA Specialists from two to three. The SAMHSA achieved major strides last year, having added both a part-time FOIA Specialist (contractor) and an IT support staff member (contractor), each of whom have been instrumental in improving HRSA FOIA operations.

The CMS instituted several enhancements to bring about greater efficiency, increased timeliness, and greater accountability among the various CMS components involved in FOIA processing. In order to assist in the processing backlogged FOIA requests, CMS acquired temporary contractual support and established a FOIA Task Force of experienced former CMS staff to tackle its oldest requests. In addition, CMS re-delegated certain denial authority from headquarters to its regional offices to speed up final case dispositions.

The FDA component offices are examining current workload demands, hiring additional staff, and shifting work and resources as needed in order to meet backlog reduction goals. For example, FOIA is one of the program areas covered by FDATRACK, a publicly available database that tracks workload statistics across the FDA. In the past Fiscal Year, four agency offices have expanded their dedicated FTEs for FOIA.

The ACF's FOIA Officer performed a staffing anaylsis last year and requested additonal staff although, due to budget constraints, no additional staff were hired.

Every month the NIH FOIA Officer reviews the list of pending requests for each component and makes an assessment of the backlog and any progress being made to reduce the backlog. Part of that assessment is a review of the staffing at each component and whether there are sufficient staff to process the pending requests. In addition, a staff review is conducted as part of process of compiling data for the FOIA Annual Report. The PSC FOIA office is currently in the process of hiring a new FOIA Specialist.

The CDC FOIA Office has reached its current ceiling of FOIA FTEs, but there is evidence to support the need for additional staff because of the increase in the volume and complexity of FOIA cases. Last year, CDC reflected a 49% decrease in the FOIA backlog due in large part to reviewing and correcting its database, calling requesters to determine if records are still needed, and other strategies. This year, the CDC backlog has increased due to the volume and complexity of requests. It is unclear whether the increase in volume and complexity of cases is a trend or is indicative of the scope and content of future requests.

The OIG performs an assessment each year focusing on the number of requests received and

backlogged, and overall FOIA performance. If the backlog has not increased and the median response time hasn't increased, the overall staffing levels are deemed to be adequate.

The IHS has three staff members in the Rockville, MD, headquarters. There are two full-time staff members, in addition to the FOIA Officer, devoted to FOIA processing. As the FOIA Officer also is the Director, Division of Regulatory Affairs, the FOIA Officer cannot devote 100% of his focus to the FOIA program. There are also twelve part-time FOIA Coordinators – one in each Area. At this time, IHS has determined that it has adequate staffing in its FOIA program.

5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

The OS has implemented a new FOIA tracking system to provide more power and functionalities for the FOIA office's FOIA reporting.

The HRSA computerization process mentioned previously has entailed conducting training sessions and working much more closely with the FOIA liaisons in HRSA's bureau's and major programs to handle document collection.

The SAMHSA's Director of the Office of Communication is planning on reorganizing the office; an increase of FOIA staff is a possibility, and would be an investment in the FOIA program.

The CMS is considering several enhancements to its current FOIA technology. First, CMS is considering whether to move the FOIA documents from the current network repository to the CMS enterprise content management system (ECM). At present CMS stores the FOIA request, acknowledgement letter, supporting documents, response letter and response records under 10 MB. The ECM will allow greater storage capability to include large record files with the marked up and redacted versions. ECM will also provide ability to search on the unstructured information in SWIFT. The ECM project includes a function to perform our records management on the FOIA information. The CMS is using a content management system and an off-the-shelf records management system for records management. It FOIA tracking system is being augmented with better indexing tools to upgrade the ability of CMS to identify subject and topic patterns in FOIA requests. This will better enable CMS to identify patterns of repetition in requests and post more targeted response information on the Internet, as well as to identify opportunities for new Open Government initiatives that will improve the public's access to information and reduce the needto use the FOIA process to obtain information. Finally, CMS is conducting a pilot expansion of its tracking system to its Medicare fee-for-service contractors. These contractors process a substantial portion of CMS' FOIA requests and an integrated system will improve customer service as well as better enable CMS to manage its workloads.

The NIH has a very effective decentralized system for responding to requests. In addition to the central NIH FOIA Office, each NIH Institute and Center (IC), and several NIH Office of the Director components, has its own FOIA Requester Service Center staffed by a FOIA Coordinator with authority to release records. By having processing operations directly in the IC, the FOIA Coordinators have greater knowledge of the location of requested files, which decreases search time. As the FOIA Coordinators and the Program Staff are colleagues within the same

organizational component, there is greater cooperation regarding the review of proposed redactions, which decreases review time. To assist with this effort, in addition to processing records that fall within the Office of the Director, the NIH FOIA Officer and her staff have prepared model letters for to acknowledge requests and to issue original submitter notifications, model guidance documents for submitter notice, and model final response letters. This reduces processing time for FOIA Coordinators and ensures consistency across the agency. Redaction guides for frequently requested documents such as awarded research grant applications and contract documents also have been developed and provided by the NIH FOIA Office. Both the model letters and the processing guides are available for download from the NIH FOIA website accessible by NIH staff and can be linked to from the NIH FOIA Tracking System, which is also maintained by the NIH FOIA Office.

The FDA uses an electronic tracking and document storage system, AIMS, to assign requests to components for processing and to store released records. AIMS has been used since January of 2006. Prior to that time, requests and copies of responsive records were retained by the agency in hard copy, and transmitted through interoffice mail. The administrative tracking, assignment and billing functions are centralized in DFOI, as are denials, fee waivers, requests for expedited processing, and appeals. Components triage requests, on receipt, into the appropriate queues and generally use multi-track processing to capitalize on the efficiencies of responding to simple requests quickly, while larger, more complex requests (which require more search and review time) are answered on a first in, first-out basis within each queue and track. Note that a request can be in more than one queue, so partial response can be made for simpler parts of a request. In addition, a request can be moved to a different queue if consultation with a requester indicates that the request is simpler or more complex than first determined by FDA. The FDA has posted contact names and telephone numbers for requesters to easily contact FOIA staff. As noted, the FDA uses an electronic repository to store released records. This speeds processing when such records are requested again. The FDA redacts records electronically, and the FDA is also exploring and piloting other electronic redaction programs. The FDA has a substantial internet presence, with databases, records, and other resources available to the public.

The PSC FOIA office ensures that its system for responding to requests is effective and efficient by continuing to educate and train agency personnel to conduct adequate and proper searches. It also communicates with its serviced program offices to ensure complete understanding of the request in an effort to conduct more accurate records searches.

The CDC FOIA Officer has assessed the strengths of each employee and has made assignments based on those strengths. The FOIA analysts are assigned with the aid of an assessment of skills and abilities, as well as reported interest in the subject matter. Analysts who are experienced with certain types of documents are better able to determine whether program offices' search results are complete, and are better equipped to handle all types of cases related to particular programs. This approach has enhanced the office's ability to handle very complex cases with fewer errors. The CDC/ATSDR FOIA Office routinely sets goals and monitors the progress of each employee's case load through weekly reports. The CDC's software package is utilized to track requests, redact records, and to provide reports to managers. This keeps management informed and ensures timely program responses. Training has been provided to program staff,

and to FOIA office staff members. The FOIA Office staff members are available to offer expert advice to program staff regarding procedures and practices.

The OIG, in addition to weekly open case reviews, periodically surveys frequent requestors as to its performance, and for suggestions to improve.

The IHS requested that other division staff be trained to assist with the FOIA program caseload. Last year IHS had two part-time staff members help with logging in new cases, sending out the acknowledgment letters, and forwarding the request to the appropriate program office for search. This staff person does not review and redact responsive material for potential redactions, but allows the FOIA staff to focus on the substantive processing of each case. The IHS has continued to post widely-requested information on the IHS FOIA website and to provide the most up-to-date information by maintaining a strong relationship with program offices. For instance, the FOIA office has consulted with several program offices at the Headquarters level to add their program sites to the FOIA website; and has discussed with those program offices what information they may have to contribute to the Frequently Requested Records portion of the FOIA staff site; and what links would be helpful to the public. The FOIA staff continues to maintain an excellent working relationship with other operating divisions by attending training conferences, meetings, and other FOIA information sessions. From these interactions with other FOIA professionals, IHS reports it is better able to conduct the FOIA program in a manner that is consistent with the Department of Justice's FOIA processing program guidelines.

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 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. Has your agency added new material to your website since last year?

Yes, many HHS components have added material to their various websites since last year. In the OS, the Office of Medicare Hearings and Appeals (OMHA) has revised its contact/organizational information; the Office of the Assistant Secretary for Preparedness and Response has released, through its "Public Health Emergency" website (PHE.gov), as well as through www.medicalcountermeasures.gov, and on www.hhs.gov.

The AHRQ posts a large volume of material on its webpages, which it believes decreases the need for FOIA requests. Information such as awarded grants and contracts are not available via the Web site and therefore require a FOIA request. This information, once expunged of material exempt from release under the FOIA, is available in redacted form in its library room.

The ACF regularly updates program information and materials on the website, several times per week. The ACF created a FOIA Intranet site with training material link: FOIA Process (http://intranet.acf.hhs.gov/nfoia/docs/FOIA%20All%20Hands.pdf); FOIA-RMS (http://intranet.acf.hhs.gov/nfoia/docs/ACF%20FOIA%20RMS%20Business%20Flow%20-%20All%20hands.pdf)
The ACF reorganized its FOIA Library, adding links to reports and samples of grant applications; and, the ACF is participating in DHHS' Healthdata.gov initiative (Health Data Initiative, or HDI). The HDI provides a centralized location to search for raw datasets that DHHS OPDIVs and STAFFDIVs have made available to the public. The Child Welfare Information Gateway (www.childwelfare.gov) adds several new publications and links to other related resources every week. The Children's Bureau site (www.acf.hhs.gov/programs/cb) adds several new publications, reports, and links to other related resources on a weekly basis. The ACF Office of Planning, Research and Evaluation has added material describing FY 2011 contract and grant awards, updated material describing ongoing contract and grant activities, and added reports resulting from completed and ongoing contract and grant activities.

The CDC updated material on its website last year, for example, credit card-holder names, and has worked with web designers to conform to current standards and ensure that its website is customer-friendly. The CDC also publishes its FOIA backlog counts each month, with a 25 month-long backlog history.

The OIG, in addition to revamping its entire website, added all OIG Congressional testimonies, and included new training audio and video podcasts. The IHS updated its information on the FOIA website and updated and added many links to other sites.

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

Within the OS, the Office of the National Coordinator for Health Information Technology (ONC) added many new materials last year including press releases, grant funding opportunities, contract solicitations, program information, federal advisory committee activities, ONC initiatives, and comments for the health information technology (IT) and federal advisory committee blogs. The ONC materials include survey data about proportions of hospitals and doctors planning to adopt electronic health records; results of a study showing that 92% of articles on health IT showed overall positive effects of health IT for quality and efficiency of health care; funding announcement for critical access and rural hospital's switch to electronic health records (EHRs); Federal Health IT Strategic Plan for 2011 – 2015; EHR implementation tools; ONC's Certified Health IT Product List; the HIPAA Security Toolkit; the Health Information Exchange (HIE) Security Architecture; the EHR Incentive Payment Timeline; health IT Videos; Ginger Vieira, diabetes patient; EHR: Dr. Edward Sobel & Jack Rader's EHR Story; EHR: Delaware Senator Michael Katz's EHR Story; EHR: Cynthia Whisker's EHR Story; Dave de Bronkart, Stage 4 Kidney Cancer Survivor---he blogs as ~~e~~-patient Dave"; Regina Holliday: Access to Your Health Record Can Save Your Life; Frequently Asked Questions (FAQs); E-mail updates; Case Studies and Health IT Data; Case Studies: Physicians Using EHRs; Data: Benefits of Health IT, HIE projects in 48 states, and studies showing better patient outcomes with EHRs;

Comprehensive listing of contacts for each ONC program area; Health IT Stories from the road: Highlights stories, Solo practice stories, Group practice stories, and Hospital stories.

The Immediate of of the Secretary has continued its initiative to ensure that all senior leadership profile and contact information is updated for easy of access to the public. The Office of the Assistant Secretary for Preparedness and Response (ASPR) posts materials to www.phe.gov, such as National Biometric Security Project (NBSB) public meetings (http://www.phe.gov/Preparedness/legal/boards/nbsb/meetings/Pages/default.aspx), and BARDA industry day conference materials and meeting reports. Some of the Office of the Assistant Secretary for Finance and Resources (ASFR) postings include HHS Operating Plans, the HHS Budget, and the Agency Financial Report.

The SAMHSA plans to post grants and contracts. The ARHQ posts numerous statistical data and reports from Military Enlistment Processing Stations (MEPS) and Healthcare Cost and Utilization Project (HCUP) databases, as well as weekly English podcasts and bi-weekly Spanish-language podcasts.

The Office of the Assistant Secretary for Planning and Evaluation (ASPE) posted a large volume of material last year, including Essential Health Benefits: Individual Market Coverage; Essential Health Benefits: Comparing Benefits in Small Group Products and State and Federal Employee Plans; Variation and Trends in Medigap Premiums; Disability Data in National Surveys; 2.5 Million Young Adults Gain Health Insurance Due to the Affordable Care Act; Assessing the Need for a National Disability Survey: Final Report; Human Services and Housing Supports to Address Family Homelessness: Promising Practices in the Field, Research Brief; Actuarial Value and Employer-Sponsored Insurance, Research Brief; Health Care Coverage and Medicaid/CHIP Eligibility for Child Support Eligible Children, Research Brief; Policy Research for Front of Package Nutrition Labeling: Environmental Scan and Literature Review; HHS Implementation Guidance on Data Collection Standards for Race, Ethnicity, Sex, Primary Language, and Disability Status; Economic Analysis of the Causes of Drug Shortages, Issue Brief; Improving State TANF Performance Measures; A Report on the Actuarial, Marketing, and Legal Analyses of the CLASS Program; Drug Testing Welfare Recipients: Recent Proposals and Continuing Controversies, Issue Brief; Poverty Research Centers: Announcement of Award of Fiscal Year 2011 Grants; Web-Based Screeners and Applications: Potential Tools for Improving Benefit Access and Program Efficiency, Issue Brief; A Comprehensive Review of Immigrant Access to Health and Human Services; Hospitalizations of Nursing Home Residents: Background and Options; One Million Young Adults Gain Health Insurance in 2011 Because of the Affordable Care Act, Issue Brief; Information on Poverty and Income Statistics: A Summary of 2011 Current Population Survey Data, Issue Brief; Overview of the Uninsured in the United States: A Summary of the 2011 Current Population Survey, Issue Brief; National Alzheimer's Project, September 2011; Dynamics of Being Disconnected from Work and TANF; Toward a Social Cost-Effectiveness Analysis of Programs to Expand Supported Employment Services: An Interpretive Review of the Literature, December 2010; Children Adopted from Foster Care: Child and Family Characteristics, Adoption Motivation, and Well-Being, Research Brief; Children Adopted from Foster Care: Adoption Agreements, Adoption Subsidies, and Other Post-Adoption Supports, Research Brief; National Survey of Adoptive Parents (NSAP): Benchmark Estimates of School Performance and Family Relationship Quality for Adopted Children;

Federal Financing of Supported Employment and Customized Employment for People with Mental Illnesses: Final Report; The Importance of Radiology and Pathology Communication in the Diagnosis and Staging of Cancer: Mammography as a Case Study; Post-Acute Care Episodes Expanded Analytic File Final Report; Announcement of the availability of funds and request for applications for a grant(s) to establish a Poverty Research Center Program; Promoting Public Benefits Access Through Web-Based Tools and Outreach: A National Scan of Efforts; Understanding Medicaid Home and Community Services: A Primer, 2010 Edition; Medicaid and Permanent Supportive Housing for Chronically Homeless: Literature Synthesis and Environmental Scan; The Value of Health Insurance: Few of the Uninsured Have Adequate Resources to Pay Potential Hospital Bills, Research Brief; Incarceration and Reentry, Project Page; Influence of New Media on Adolescent Sexual Health: Evidence and Opportunities, Working Paper; The Influence of New Media on Adolescent Sexual Activity, Project Page; Understanding Direct Care Workers: A Snapshot of Two of America's Most Important Jobs — Certified Nursing Assistants and Home Health Aides; Review of the Long Range Assumptions of the Medicare Trustees' Projections: Interim Report; Low-Income Single Mothers Disconnected From Work and Public Assistance; Report to Congress on A Study of the Large Group Market; and Overview and Inventory of HHS Efforts to Assist Incarcerated and Reentering Individuals and their Families.

The Office of Global Affairs' (OGA) website, www.globalhealth.gov underwent a complete review and redesign during 2011. The result is an improved website that better explains the efforts and achievements of OGA and all HHS OPDIVs and StaffDIVs in the area of global health and health diplomacy, and it has a search function.
The CMS link to the A-Z index of posted information is: http://www.cms.gov/center/freedom-of-information-act/index.html. The Office for Civil Rights' examples include press releases announcing various enforcement efforts and activities; a survey tool was implemented on its website to get feedback from the public on the usability of our site---this breach notification tool is updated regularly:
(http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/breachtool.html).
Another is its Report to Congress:
(http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/breachrept.pdf).

Examples of FDA postings include, but are not limited to, the following: Weekly Enforcement reports; Recall Information; Budget records; Import Refusals; International Arrangements; Product Approvals; Press Releases; Tobacco Retailer Letters; Clinical Investigator Correspondence; Warning Letters and responses; Agendas, rosters, background packages, and minutes of Advisory Committee Meetings; Inspection records and firm responses; Field Work Plans; Sample results; FDA Track Updates (which includes tracking of FOIA metrics); New regulations and guidance for the Center for Tobacco Products; Post-Approval studies; and, Consumer Advisories and Alerts for blood products and vaccines.

The ACF, in addition to submitting appropriate datasets to Healthdata.gov's catalog, has created a metadata sheet to indicate other raw datasets posted on ACF's website and to highlight those datasets program offices have already made available. Other examples of postings include: Building Non-Profit Capacity and Community Partnerships: Findings from the Communities Empowering Youth Evaluation
(http://www.acf.hhs.gov/programs/opre/other_resrch/ccf/reports/cey_final_report.pdf); National Survey of

Child and Adolescent Well-Being II Baseline Report: Child Well-Being, Final Report (http://www.acf.hhs.gov/programs/opre/abuse_neglect/nscaw/reports/nscaw2_child/nscaw2_child.pdf); Secondary Analysis of Head Start Data (http://www.acf.hhs.gov/programs/opre/hs/scnd_analysis/index.html); Design Options of the Search for Employment (http://www.acf.hhs.gov/programs/opre/welfare_employ/dose/index.html); A Two-Generational Child-Focused Program Enhanced with Employment Services: Eighteen-Month Impacts from the Kansas and Missouri Sites of the Enhanced Services for the Hard-to-Employ Demonstration and Evaluation Project (http://www.acf.hhs.gov/programs/opre/welfare_employ/enhanced_hardto/index.html). The ACF's Office of Refugee Resettlement examples include: New grant awards made in FY11, including funding amounts and grantee contacts; refugee arrivals for FY10; new State Letters issued by ORR, including state formula funding announcements; funding opportunity announcements (FOA) for discretionary programs; matching grant program performance results; success stories (including video links) from grantees in various programs, including the Agriculture Partnership Program; materials related to the ORR National Consultation, including registration and agenda information; call for grant reviewers; revised OMB-approved program reporting forms; updates to state partner and Technical Assistance Provider contact information; updated ORR Staff Directory with phone and e-mail contact; and, summaries of quarterly placement meetings held with the U.S. Department of State's Bureau of Population, Refugees, and Migration (PRM).

Other examples include the National Foster Care and Adoption Directory (http://www.childwelfare.gov/nfcad), which offers adoption and foster care resources by state and is updated quarterly; state statutes search (http://www.childwelfare.gov/systemwide/laws_policies/state); State Guides and Manuals (http://www.childwelfare.gov/systemwide/sgm); Outcomes Report Data Site (http://cwoutcomes.acf.hhs.gov/data/); Child Maltreatment Annual Reports (http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#cw); Videos: Adoption Promo (http://www.childwelfare.gov/adoption/video.cfm); Out-of-Home Care Promo (http://www.childwelfare.gov/outofhome/video.cfm); About Child Welfare Information Gateway (http://www.childwelfare.gov/about/whatisvideo.cfm); Family Engagement Video Series (http://www.childwelfare.gov/management/reform/soc/communicate/initiative/familyvideos); and other resources:
New publications on the website include resources on considerations for appropriate use and oversight of psychotropic medications with a particular focus on children and youth in foster care (http://www.childwelfare.gov/systemwide/mentalhealth/effectiveness/psychotropic.cfm)

Other ACF examples include those of the Office of Head Start (OHS), including: Annual Fact Sheets; official issuances (Information Memoranda, Program Instructions, Legislation and Regulations); Grant and Funding Opportunities; HHS/ACF press releases ARRA-funded Head Start Programs; audio recording of Conference Call Regarding the FY 2011 Budget; notice and supporting documents for Race to the Top Early Learning Challenge grants; School Readiness webcast; videos of Head Start parents describing support of Head Start program and own development through the program; grant and funding opportunities; Office of Child Care and Office of Head Start Collaboration webcast; multiple webcasts supporting infant-toddler

programs; and Head Start Family Engagement webcast series.

The NIH posted correspondence and other information about the proposed dissolution of the National Center for Research Resources and the proposed National Center for Advancing Translational Science, including links to more pertinenet media coverage. The NIH Office of Extramural Research (OER) posted a de-identified dataset associated with a publication on Race, Ethnicity and NIH Research Awards the same day the results of the study were published. OER also posted public comments received on the 8th Edition of the Guide for the Care and Use of Laboratory Animals and the Office of Laboratory Animal Welfare's analysis of those comments. The Office of Technology Transfer launched the electronic Research Materials catalogue (RMa) to streamline the Federal government's techology transfer process. This new system provides a website for companies to find and license unpatented materials using a ready-to-go contract, allows companies to pay applicable fees online through a Department of Treasury web site and provides faster turn-around time and simplifies the process for companies to find reseach materials available from NIH laboratories. The Fogarty International Center compiled existing NIH materials of interest to global health researchers and posted them in Spanish. The National Institute of Arthritis and Musculoskeletal and Skin Diseases posted over 25 new videos to its website regarding various research topics. The National Center for Research Resources posted information about an in-depth analysis to reassess the scientific need for the continued use of chimpanzees to accelerate biomedical discoveries. The National Institute of Dental and Cranial Research (NIDCR) posted summaries of new data on dental caries, dental sealants, and cleft lip and palate in children. NIDCR also posted a "Toolkit for Clincial Researchers" which provides essential documents for the use of grant applicants and awardees pertaining to clinical research start-up, the conduct of clinical research and clinical research study completion and close-out. The National Institute of Biomedical Imaging and Bioengineering posted 23 YouTube videos on numerous topics including "Roboticsfor Rehab." The National Heart Lung and Blood Institute (NHLBI) updated its website to add an "areas of expertise" section to help guide members of the media. NHLBI also posted a Frequently Asked Questions section about the Adult Cardiovascular Guidelines in development. The National Toxicology Program posted test article and study data for bioassay (CarTox), CHO cell cyogenetics, drosophila, micronucleus, mouse lymphoma, rodent cytogenetics and salmonella. The National Institute of Allergy and Infectious Diseases (NIAID) posted patient friendly food allergy guidelines. The NIAID also restructured its Clinical Trials Networks web content, town hall meetings and blog posts to involve the community in planning the future of its clinical trials networks. The Center for Scientific Review posted an updated video that demonstrates to grant applicants, reviewers, and others how NIH peer reivew groups work to identify the most promising research. Other information posted during the year by many of the ICs includes meeting minutes, transcripts of testimony, strategic plans, and funding opportunities. In addtion, NIH uses social media such as twitter, blogs, Facebook and YouTube to communicate with the public.

The CDC/ATSDR posts its credit agency card holder information. The OIG video and audio podcasts all speeches and Hill testimony. Examples of IHS postings include information provided on the "Training Tools, Presentations, and Other Important Links" page, which has been updated with new program office links. For example, the Office of Environmental Health and Engineering program's website address was added to the Important Links Section, because of an increase of requests for information relating to the agency's funding of new hospitals and

other construction projects with the assistance of the American Recovery and Reinvestment Act of 2009 (AARA) funding. The IHS experienced a great increase in requests for this funding information, specifically for construction projects, which required FOIA staff to have extensive collaboration with engineering staff in order to provide the requester with the fullest possible release of information. By regularly updating the FOIA website, IHS provided the user with important information relating to staff changes at Headquarters and Area FOIA Contacts; information is reviewed quarterly, and updated.

The SAMHSA plans to post grants and contracts. The AHRQ posts numerous statistical data and reports from Military Enlistment Processing Stations (MEPS) and Healthcare Cost and Utilization Project (HCUP) databases, as well as weekly English podcasts and bi-weekly Spanish-language podcasts.

3. **Describe the system your agency uses to routinely identify records that are appropriate for posting.**

The various major organizational components' methods for identifying records are similar, but vary from organization to organization. In the OS, the ONC's Office of Communications meets regularly with ONC program offices to identify documents, videos, data and other information to be posted on the ONC Health IT web site. The ASPR's postings are identified through HHS' Executive Secretariat and HHS Public Affairs clearance processes; all documents of interest to stakeholders and cleared for public release are posted.

The ASPE posts all reports and other documents prepared for the public are identified in the HHS Executive Secretariat and HHS Public Affairs clearance processes; all documents of interest to stakeholders and cleared for public release are posted. In the OGA, as part of a complete overhaul of OGA records management begun in 2011, is undertaking the following steps: Organizing files in accordance with the NARA Disposition Schedule; scanning files to create an electronic file library; redesigning the OGA staff portal to facilitate document collaboration and records mangment (starting January 2012); developing a content approval and editorial review process for content to be made available via the website. The Office of the Assistant Secretary for Legislation (ASL) routinely posts Congressional testimony given by HHS officials on its web site.

The SAMHSA has a number of grant programs that garner greater interest by FOIA requesters than other programs. In particular, these include the Drug Free Community programs; the Pregant and Postpartum Women program and the Strategic Prevention Framework State Prevention Enhancement grant program. In order to support the needs of its consumers, SAMHSA is working to provide easier access and relevant information concerning these programs.

The AHRQ's mission is dissemination, and reports that most of what the agency does is posted on its web site.

The CMS engaged the entire agency, not just the FOIA Office, in responding to the Administration's Openness and Transparency Initiative. The CMS Administrator required all Center and Office Directors to identify three categories of frequently requested records for

posting to the CMS web site in an effort to provide greater access to its information. As a result of this exercise, over 300 links to data and information have been added to the CMS web site. This process will repeat itself on an annual/semi-annual basis.

The FDA uses two general methods for determining which records to post on the agency's website. One is where senior staff in the FDA headquarters office reviews every incoming request for, among things, patterns in the types of records requested. When identified, FDA proactively post the types of records requested. For example, there is an FDA-wide program to post all Warning Letters because these are frequently requested. Similarly, the Center for Drugs and Center for Biologics post Untitled Letters regarding advertising and promotion violations. The second type is where components that process FOIA requests determine, either prior to or after receipt of any FOIA requests, that a particular record will be of significant public interest (i.e. that multiple FOIA requests are likely), and post the record. See, for example, the ORA FOIA Library at http://www.fda.gov/AboutFDA/CentersOffices/ORA/ORAElectronicReadingRoom/default.htm, where the Office of Regulatory Affairs (ORA) posts inspection reports and related records on this page, which have attracted significant interest from the public (over 5 million page views and 775,000 visits). In addition, the Center for Devices has proactively posted certain frequently-requested 510K (device clearance) records.

Certain FDA records are proactively posted per statute: New product approval packages are posted on the internet pursuant to the Food & Drug Administration Amendments Act (FDAAA) of 2007; Advisory Committee panel materials are posted to the internet pursuant to the Federal Advisory Committee Act (FACA); certain records are posted pursuant to the Food Safety Modernization Act; the Division of Dockets Management posts records at www.regulations.gov. Last year, 1,003 dockets were created for a total 12,223 FDA records posted online.

The ACF has a thorough review and approval process, by agency manageers, before posting materials.

The NIH takes a multifaceted approach to identify records appropriate for posting. The NIH FOIA Officer's direct supervisor is the NIH Associate Director for Communications and Public Liaison, who meets bi-monthly with the Communication Directors and other communication professionals. He knows what initiatives are being launched and identifies those that may be appropriate for proactive disclosures. The Institute or Center (IC) FOIA Coordinators work closely with program officials and recommend records for posting. In addition, each IC also monitors its programs to identify appropriate materials. Web sites are under nearly constant internal review so that previously posted information is kept current and accurate.

The CDC reports that it continues to update current information and policies on its website. The OIG proactively posts any document which is believed will generate public interest; if a pattern of interest is identified, for a certain set of records, the OIG posts the documents.

The IHS system used to identify materials for posting is to identify records frequently requested through the FOIA process, or records that otherwise seem to be of heightened interest to the public during the year. Through consultation with the program office that maintains those records, the IHS can then determine if the records may be useful to the public, and if there is a need to post those records.

4. Beyond posting new material, is your agency taking steps to make the 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, providing explanatory material, etc.?

Within OS, the EHR and health information technology information posted to the ONC web site is very "user-friendly" because it has been tailored for different audiences such as patients versus providers. For example, there are videos about using EHR's that include patients or caretakers of patients who are EHR users. Also, there are testimonials about health IT from providers in a variety of health care delivery settings. The ONC Health IT web site has search capabilities in addition to being organized in a format that has easily recognized tabs and sections for patients, providers and vendors. The web site contains background papers, journal articles, and frequently asked questions, all of which are designed to be helpful to the public.

The ASPE is in the midst of a project to redesign its web site to improve these things. The OS' OGA is planning a comment/survey function intended for the www.globalhealth.gov website. This should be fully functional in 2012. The ASPR has used the web sites www.phe.gov and www.medicalcountermeasures.gov provide links for questions and comments to be submitted to the agency through www.phe.gov, Facebook, YouTube, and Twitter feeds available through www.phe.gov allow for public comment and www.medicalcountermeasures.gov allows visitors to subscribe to RSS feeds and request a meeting with federal officials regarding products that they are developing. Contact information, including phone numbers and e-mails are available on the www.phe.gov website. Visitors are able to report emergencies and non-emergencies with links to the specific agencies' website. The PHE website also contains a blog that allows comments from the public.

The CMS implemented a more robust and user-friendly FOIA Service Center webpage. It contains Frequently Requested Information, FOIA contacts, information on FOIA requests, and Tools & Helpful Links all located conveniently on one page. This new webpage directs users directly to information they wish to view, such as Beneficiary Records, Health Plan Finder, and Publicly Available Information in an A-Z index, and the status of their FOIA request. This feature enables the public to use the webpage for information and data that may have been requested in the past via a traditional FOIA request or through additional telephone calls and correspondence to CMS FOIA staff. The revised CMS FOIA Web site was implemented in 2011 and has had 46,317 page views as of December 2011. Additionally, the CMS engaged the entire agency, not just the FOIA Office, in responding to the Administration's Openness and Transparency Initiative. The CMS Administrator required all Center and Office Directors to identify three categories of frequently requested records for posting to the CMS Web site in an effort to provide greater access to agency information. As a result of this exercise, over 300 links to data and information have been added to the CMS web site. This process will repeat itself on an annual/semi-annual basis. In FDA, as noted above, the Transparency Taskforce continues to interface with the public regarding access to FDA records. The FDA has invited the public to comment on the FDA's draft Transparency Initiative proposals, and to review the FDA's progress in implementing action items and draft proposals (see http://www.fda.gov/AboutFDA/Transparency/TransparencyInitiative/default.htm). The FDA's

website has a —ontact us" button on its website, which invites the public to submit comments and questions via email, mail, or telephone.

The ACF has installed a Live Chat feature, through which web site users can engage with an Information Specialist who will assist with questions, concerns, or trouble locating information. Live Chat is available from 8 am to 5 pm Eastern time, Monday through Friday; a customer satisfaction survey, which is offered at randomly generated times throughout the year and is presented to users after five clicks through the website. The ACF's overall satisfaction score among targeted audience users is 87 percent; ACF has sought to use plain language in its web content; the use of Google Search on the website this fiscal year– the search feature is widely used on the site, therefore ACF is utilizing functionality with which most visitors are comfortable. The Children's Bureau site (www.acf.hhs.gov/programs/cb) is undergoing a complete redesign for 2012 along with other ACF sites. The redesign includes use of plain language, improved search capabilities, and additional communication channels using social media. A redesign of the Office of Child Support Enforcement (OCSE) website, focused on the needs and challenges of OCSE constituency, will improve customer service across all child support program partners and stakeholders. The new website will provide user-friendly, quick, just-in-time access to general child support program information and referrals to program resources and child support agencies. It will provide policy guidance, technical assistance and performance data that is well-organized and readily accessible, and will enable users to provide feedback on improvements and suggestions. Ultimately, the site will connect child support constituents and promote a family-centered program. The OCSE is working to make its previously released data more accessible to public audiences via an online data query system, with the goal of providing a web-based interactive database system that will provide customized reports of child support data based on user-specified selection of variables (e.g. year, case type, state, region, etc). These data will be provided for the purpose of statistical reporting and analysis. OCSE is working with systems staff at ACF and HHS to use the Data.gov website to facilitate this process to make our data more accessible to researchers and other users.

The OCR is currently redesigning its website to make it more user friendly, increase the visibility of information and resources that would be of importance and use to the consumer and other people who visit the site, such as health care providers. It has redesigned and rewritten content for our factsheets and backgrounders to be available for the public to download in a digital toolkit through the website; it is in the middle of post-production on seven video vignettes that will live on OCR's youtube page and web site. These will educate the public on their rights to their health information privacy and actions they can take if those rights have been violated.

The CDC works with the web designers to keep the website current and to ensure conformity with established parameters and to ensure that the site is customer-friendly.

In addition to Twitter, YouTube and Podcasts, the OIG routinely solicits input from its users. The HHS OIG website received the 2011 Interactive Media Outstanding Achievement Award.

The IHS continues to make its FOIA website easily readable, and materials are easily found using the main search page. The IHS has received a lot of positive feedback from the public on the site's ease of use, and continues to work with IT staff to ensure that the web site and the documents posted are 508 compliant.

The OGC uses a subscription service on its OGC Careers web site that allows the public to automatically receive an e-mail when new vacancy/recruitment announcements are posted. There is also a link to "Contact Us", a webpage with the mailing address of the Office of the General Counsel.

5. Describe any other steps taken to increase proactive disclosures at your agency.

The ONC underwent a major reorganization in 2009 in order to properly administer $2 billion of federal grant funds from the health information technology provisions of the American Recovery and Reinvestment Act of 2009 (ARRA). In 2011 ONC has undergone additional minor reorganizations to more efficiently and effectively manage its programs and communications with the public. ONC is constantly striving to communicate effectively with providers, both hospitals and physicians, to accomplish the goal of widespread use of health IT, which will make the U.S. health care system more efficient, reduce paperwork for patients and doctors, expand access to affordable care, and ultimately build a healthier future for our nation.

The ASPR uses Facebook, Twitter, and YouTube to disseminate information to the public and work with other Federal and state agencies to make public information available as quickly as possible.

The ASPE, in the past year, has begun to rewrite materials initially written for internal purposes in ways that they may posted on its web site. This has increased substantially the number of analyses, originally done for internal purposes, that are posted online.

At FDA, proactive disclosure is discussed at FOIA training sessions and FOIA Council meetings, and planned postings are coordinated among Centers and the Office of Public Affairs. The FDA uses social media, such as Facebook and Flickr to disseminate information to the public (see www.facebook.com/fda and www.flickr.com/photos/fdaphotos/). The FDA hosts webinars for the public via its website. Recent topics have included the import entry process, drug shortages and reporting adverse events. The FDA provides the public with the ability to subscribe to RSS feed notices or sign up to receive automated emails for updates to over 100 different web pages/databases (see http://www.fda.gov/AboutFDA/ContactFDA/StayInformed/GetEmailUpdates/default.htm). For example, there are over 67,000 users subscribed to FDA's Warning Letter webpage. When the Warning Letter page is updated (at least weekly), those subscribers receive an automated email, confirming that the web pages have been updated, with a link to the page.

The ACF created a procedure for extraction of previously-approved grant applications from our ACF Center of Excellence (COE) Grant Solutions System, enabling the FOIA Staff to search for applications (1) to respond to a FOIA Request; or (2) to proactively select applications to be used as examples in the ACF FOIA Library. The ACF proactively posted all the State Advisory Council applications that were sent to us by states on the ACF early childhood web site - http://www.acf.hhs.gov/earlychildhood/sac_apps.html. This is the very first posting by ACF of any funded grant applications. The ACF's Office of Refugee Resettlement also circulates a (quarterly) newsletter that imparts additional information, and solicits feedback and submissions from the stakeholder network, currently totaling 1,400 persons. Furthermore, ORR sends out "list emails" to the same network of stakeholders to share announcements from HHS/ACF that

are pertinent to the network, or other breaking news deemed to be of interest to the greater audience. These —blast emails" have included Funding Opportunity Announcements from other OPDIVS, including the Office of Family Assistance (JOLI), Office of Community Services (LIHEAP), and statements from Secretary Sebelius marking key occasions or developments from HHS.
The ACF's Office of Family Assistant began posting Tribal caseload and participation data this year and have increased use of the ListServs to alert our public to new postings. All program performance measurements and results are reported annually in OCSE's Annual Report to Congress, which is published on the OCSE website at http://www.acf.hhs.gov/programs/cse/pubs/index.html#annual.

The NIH measures described in the other parts of this report capture many of the efforts NIH takes to increase proactive disclosures. The entire NIH community, including NIH FOIA professionals, is dedicated to communicating with the public and to continually improving the methods of doing so.

The OCR has been working to increase its attentiveness to media requests by conducting regular outreach
activities at the regional level to stakeholders and community-facing organizations; holding listening sessions around the nation and at headquarters with stakeholders and community-facing organizations; and, participating in other televised events alongside fellow HHS components such as ONC.

The OMHA is a small STAFFDIV with the very specific mission of administering nationwide hearings in (Level 3) the Medicare claims appeal process. Many OMHA appeal records contain personally identifying information (PII) which is protected by the Privacy Act. In addition to the OMHA website, information about the Medicare appeals process is also available on CMS' web site; OMHA routinely shares links to the CMS and OMHA web sites in response to general public inquiries.

The PSC FOIA office educates its serviced progam office staff members regarding the importance of proactively posting information online. Many offices, such as the Office of Human Research Protections (OHRP), a component of the Office of the Assistant Secretary for Health (ASH) already post many of its documents to its own website.

The IHS FOIA staff continues to work closely with program offices at its headquarters and Area level in order to educate the staff about the FOIA program and the records for which those offices are responsible. This way, IHS provides the requester with the most information possible based on the input regarding material that may be readily reeleasable or information that program managers suggest to be withheld based on the nine FOIA exemptions. Educating the FOIA staff on the various IHS programs ensures that requesters will be provided with the fullest possible access in the spirit of transparency.

The OGC homepage describes the function of OGC. The —About OGC" page lists the areas of law that the General Counsel is responsible for throughout the agency. The regional and division offices are listed, along with contact information for leadership and management individuals.

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 handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Yes, members of the public may submit FOIA requests electronically to any HHS FOIA office, although the type of electronic access varies, especially as some offices offer web requests online. The OS FOIA office provides a web request page (http://www.hhs.gov/foia/request/index.html) by which requestesr may submit their requests, although requests may also be submitted by fax, e-mail, mail or special delivery. The FOIA requests received in OS that require forwarding to other HHS components are e-mailed to the respective office.

The SAMHSA FOIA Officer receives FOIA requests directly to her e-mail account or at the SAMHSA FOIA e-mail account. The AHRQ FOIA webpage includes an e-mail address that the requester may utilize, by which the request is sent to the FOIA request inbox.

Once FDA logs a request, it is transmitted electronically to the assigned component(s) that will process the request. The FDA is in the final stages of preparing its own online FOIA request form. The form is being tested now, and FDA expects to roll the form out to a larger audience in 2012.

The CDC's FOIA requesters may submit a request through its website, by fax, or by email, as CDC has added the capacity to submit a request online. A CDC scorecard of incoming and completed FOIA requests, by month, has been added to the web site. The CDC/ATSDR maintains an online status checker for the convenience of its customers. The CDC utilizes an electronic FOIA tracking system to expedite the FOIA process by electronically disseminating FOIA requests to program areas within 24 hours of receipt. Tracking reports are generated from the database to assist programs in returning documents to the CDC FOIA Office in a timely manner. Requests are submitted through e-mails, faxes, hard copy, or on-line submissions. The FOIA tracking system uses software which enables FOIA analysts to redact electronically to reduce the time it takes to prepare redacted responses for release. The software also provides a full administrative record as well as redacted and un-redacted responsive records. Reports are generated bi-monthly to FOIA program coordinators, and monthly to CDC management officials. The CDC uses a web-based redaction system; and, the Annual FOIA Report is generated through the CDC FOIA Office database electronically. The CDC FOIA staff members are supported by CDC IT staff as well as their redaction software vendor's technical support

staff. The CDC managers understand the importance of the CDC FOIA database and are quick to resolve issues that may arise.

The IHS web page allows the electronic submission of FOIA requests, and is easily located on its website.

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?

Yes, HHS FOIA offices do receive requests electronically, although some utlize web online webrequest pages.

The CMS Regional Offices receive requests electronically; regional office contacts and e-mail addresses are posted at the following website: http://www.cms.gov/center/freedom-of-information-act/regional-contacts.html. The CDC is a centralized office which receives FOIA requests both through its FOIA web request page as well as through various other avenues, and those requests are logged into our database, and disseminated electronically to our CDC/ATSDR FOIA Coordinators. The coordinators then futher disseminate them to staff members most likely to have knowledge of the requested records.

3. Can a FOIA requester track the status of his/her request electronically?

Yes, some FOIA offices offer the capability to track his/her request electronically. The CMS and CDC have developed a tool for the requester to check the status of their FOIA request through the web. Other FOIA offices may be contacted by phone and/or e-mail, or mail to check status.

At CDC, requesters may check the status of his/her request on the CDC/ATSDR FOIA website. In 2009, CMS implemented SWIFT FOIA in its headquarters and 10 regional offices to track all incoming FOIA requests from receipt to final disposition. In 2010, CMS linked the SWIFT tracking system to the CMS FOIA Public Web Application server so that a CMS FOIA requester can obtain online an up-to-date status of their request received after January 1, 2009, at the following webpage: http://www.cms.gov/FOIA/04b_CheckStatus.asp#TopOfPage.

4. If not, is your agency taking steps to establish this capability?

Yes, some components, including the SAMHSA, NIH, HRSA, FDA,OIG, and OS are exploring this.

Use of technology to facilitate processing of requests:

5. 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?

Yes, although this varies among the various HHS components.

6. If so, describe the technological improvements being made.

The CDC utilizes technology to expedite the FOIA process by electronically disseminating FOIA requests to program areas within 24 hours of receipt. Tracking reports are generated from the database to assist programs in returning documents to the CDC FOIA Office in a timely manner. Requests are submitted through e-mails, faxes, hard copy, or on-line submissions. The CDC/ATSDR uses software which enables FOIA analysts to redact electronically thereby reducing the time it takes to prepare redacted responses for release. The software also allows us to keep a full administrative record as well as redacted and un-redacted response documents. Reports are generated bi-monthly to program coordinators and monthly to CDC management officials. The CDC uses a web-based redaction system. The Annual FOIA Report is electronically generated through the CDC FOIA Office database. The CDC FOIA staff is supported by CDC IT staff as well as its redaction software vendor's technical support staff. The CDC management officials understand the importance of the CDC FOIA database and are quick to resolve issues that arise.

In ACF, the OIS, in collaboration with ACF components, is using an E-Office process to develop a web-enabled platform for Document Repository and Content Lifecycle (from creation to archive retention \disposition). This will improve the search capabilities for referrals and consultations.

The HRSA SWIFT IT staff help us avoid de-duplication. The HRSA intranet site is being updated, including the capability of its search engine, making online searching somewhat easier.

The CMS has invested a significant portion of its FOIA resources in technology to assist in processing FOIA requests. However, based on our experience with SWIFT, we realize there are many opportunities and tools available that will enhance our ability to process FOIA request more efficiently and timely. The CMS is currently exploring the use of a centralized repository, known as the enterprise content management system, to store official records. This will enable CMS to search, retrieve, eliminate duplicate records, and to archive records in accordance with established records management procedures. The CMS has coordinated its other technology initiatives, such as enhancements to www.MyMedicare.gov, with its FOIA responsibilities. However, other CMS-wide technology initiatives, such as a document management system that could be utilized for: electronic record searches across multiple lines of business; removal of duplicate records; and, transmission of large files within CMS and with its contractors without system lock-up are still in the planning stage.

As noted above, FDA uses its tracking system to log and track requests, and also to store electronic copies of released records. Each FDA component has the capability to process requests electronically, where appropriate. Even when the requested records are only available in hard copy, records can be scanned and electronically redacted, and released to the requester by e-mail or on a compact disc. In some cases, records are too voluminous, or contain certain nonpublic information, that make them unsuitable for e-mail transmission. The FDA continues to move from paper storage of records to electronic storage, which allows for more efficient searching of records.

The PSC has updated its database to more efficiently send requests among the offices for which it processes FOIA requests and appeals. The database now prepopulates the forms we use to

control and refer requests to the offices, allowing us to efficiently forward requests electronically. This has saved considerable time because it eliminates the need to print out the forms, complete them by hand, and scan them back in before sending them.

The CDC FOIA Office uses an electronic tracking system and redaction software, and has recently acquired upgraded redaction software to assist in effectively processing FOIA requests. The CDC Management and Analaysis Office is actively investigating systems for storage and retrieval of documents. A workgroup has been convened to discuss requirements as well as agency priorities, and the workgroup is inviting providers to demonstrate products. The FOIA office is represented in those meetings.

At this time, IHS does not use technology to make redactions, or employ software to sort documents. All review and redactions are completed manually and with hard copy printed records.

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. For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.

1. 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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

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

Yes, portions of the HHS utilize a separate track for simple requests. The HHS is very decentralized, and varies insofar as its tracking procedures are concerned. Most components use a separate track for simple requests. These include ACF, AHRQ, CMS, FDA, IHS, PSC, CDC, and OIG, while some consider that the nature of their requests consist of essentially/primarily complex and expedited requests. The NIH now classifies all of is requests as simple, as of October 2011. Some major components including SAMHSA, AOA, OS, and HRSA view their requests as complex.

b. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?

For those components that track simple requests separately, the average number of days to process simple requests exceeded twenty working days.

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?

The average number of days to process non-expedited requests exceeded twenty working days.

2. 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 2011 as compared to Fiscal Year 2010. 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 2010 and Fiscal Year 2011 should be used for this section.

a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

Yes, the HHS' overall backlog of FOIA requests decreased from 9,552 (FY 2010) to 6,529 (FY 2011).

b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

The HHS' overall backlog of appeals decreased from 229 (FY 2010) to 104 (FY 2011).

c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

The HHS did close the ten (10) oldest requests that were pending as of the end of FY 2010.

d. In FY2011, did your agency close the ten oldest administrative appeals that were pending as of the end of FY2010?

Yes.

3. 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:

a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

Not applicable.

b. Was the lack of a reduction in the request backlog caused by a loss of staff?

Not applicable.

c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Not applicable.

d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

Not applicable.

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?

Not applicable.

b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?

Not applicable.

c. Was the lack of a reduction in the appeal backlog caused by in increase in the complexity of the appeals received?

Not applicable.

d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?

Not applicable.

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

The HHS has, consistent with OMB guidance and as a Department, set a goal of reducing its backlog by 10% annually. Some HHS components have their own goals. The CMS has developed a performance element to be included in CMS' senior leadership performance plans. The performance expectations are to be cascaded down throughout CMS organizational components. Currently, Medicare fee-for-service contractors use legacy data base-spreadsheet-based tracking systems to log and report on FOIA requests. The CMS requires that these

contractors submit monthly summary information and more detailed annual FOIA statistics. The CMS uses these data to better manage the portion of its FOIA requests processed by these contractors. For example, as a part of CMS' overall backlog reduction strategy, these contractors reduced their backlog of unprocessed requests from over 600 requests in fiscal year 2010 to 44 requests at the end of fiscal year 2011.

The FDA FOIA Council meets regularly to discuss, among other things, the backlog. The FDA's DFOI sends out weekly and monthly reports to senior management that include various data regarding the FOIA workload. The FOIA information is part of the FDA Track program, which tracks various data points regarding the program and makes the data available to the public on our website. The DFOI meets each quarter with the Office of the Commissioner to review and discuss the FDA-wide ―FDATrack" metrics. Information regarding FDA Track, and the FOIA dashboard, are available on www.fda.gov. The FOIA Dashboard was the most viewed Special Briefing Dashboard in FY 2011. The FOIA page has been visited approximately 13,000 times since its launch in April 2010; and has been in the top 20 most viewed FDA TRACK pages every quarter. There are now 181 FDA TRACK pages. The FDA components (outside of DFOI) which process the majority of FDA's FOIA requests report their own progress to their own managers.

The ACF set a goal to reduce the backlog by 25%, which is included in the performance plan for the FOIA staff.

The PHS/PSC FOIA conducts case reviews with its three FOIA Specialists regularly to monitor their progress in processing pending cases.

The CDC FOIA analysts provide weekly reports of cases he/she is working on and weekly goals are established. Bi-monthly reports are sent to CDC FOIA Coordinators as reminders of cases for which the FOIA Office has not received a response. Monthly reports to management are disseminated to ensure that we receive management support in our efforts to obtain documents in a timely manner.

The IHS FOIA staff regularly meet in order to discuss caseload and the nature of the information that is being requested. The FOIA staff members strive for open communications with program staff in order to provide consultation through education, and by informing them of the more complex FOIA cases that may take time to process.

2. Has your agency increased its FOIA staffing?

The Annual FOIA Report reflects that HHS, overall, increased its FOIA staffing from 255 to 285. The CMS increased its staff from 74 to 80; the FDA from 112 to 127; the OS from 5.5 to 12; and, the HRSA from 3.5 to 4.5.

Among CMS' increase, in order to assist in the processing of backlogged FOIA requests, CMS acquired temporary contractual support and established a FOIA Task Force of experienced former CMS staff to tackle its oldest requests.

3. Has your agency made IT improvements to increase timeliness?

Within HHS a number of IT-related steps have been taken with the intent of improving timeliness. As mentioned previously, the OS implemented a new FOIA tracking system which is expected to help the office maintain better awareness of and control over its FOIA caseload. The HRSA also implemented a new tracking system, which is ultimately expected to help improve turn-around times; and ACF launched a new dedicated FOIA Records Management System in November 2011.

The CMS is piloting a new web-based SWIFT contractor portal that will enable CMS to better manage the FOIA requests received by the contractors. Contractors will be able to manage their FOIA requests, run reports, and provide data to CMS using the portal. The CMS also will be able to run management reports regarding its contractor-handled FOIA requests. When fully implemented, this portal will allow CMS to immediately report to the requestor, or management, the status of the contractor requests. Currently CMS must contact the contractor to find out the status. The FOIA contractor portal resides in the same database as the SWIFT data. The CMS will have real time access to all the FOIA information collected by the contractors instead of relying on monthly reports.

The FDA continues to use electronic assignment of requests for scanning, electronic redactions, and email releases to increase timeliness. As noted, each FDA component that processes FOIA requests met with its IT staff to discuss process improvements to its tracking system. The FDA is in the final stages of going live with an online FOIA request form. The FDA is using webinar technology to provide low-cost FOIA training to personnel located across the country and in international offices.

The PSC FOIA office has updated its FOIA request database to more efficiently control requests and appeals to the offices for which it handles requests and appeals. The OIG has upgraded computers and software, adding larger hard drives to accommodate electronic processing.

4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

The HHS receives a very small number of consultations from other agencies; we will seek to develop agreements with other agencies if the number or type of such consultations develops such that this would lead to speeding up or eliminating the need for such consultations.

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 2011?

The HHS has not invoked a statutory exclusion during FY 2011.

2. If so, what is the total number of times exclusions were invoked?

Not applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2011 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.

A number of major HHS components took important strides to increase transparency and to improve FOIA administration, of which several important examples are below.

The CMS Administrator implemented a strategic goal (Improving Access to Frequently Requested Information under the Freedom of Information Act) that all CMS Centers and Offices must meet. The Administrator instructed CMS senior staff to take affirmative steps to make appropriate information publicly available and avert the need for the public to submit FOIA requests. All CMS Centers and Offices Directors were required to identify, by January 31, 2011, at least three categories of information frequently requested from CMS under the Freedom of Information Act that can be disclosed on the CMS Web site. By March 31, 2011, components were to post on the CMS Web site, at least one category of frequently requested information. By August 31, 2011, they were further required to post on the CMS web site at least one additional category of frequently requested information. The information posted may be posted on a pilot basis if necessary and, if appropriate, may be developed in collaboration with other CMS and HHS components, State agencies, or other repositories of relevant information. As a result of this exercise, over 300 links to data and information have been added to the CMS web site. This process will repeat itself on an annual/semi-annual basis. To complement this effort, CMS implemented a more robust and user-friendly FOIA Service Center webpage. It contains Frequently Requested Information, FOIA contacts, information on FOIA requests, Tools & Helpful Links all located conveniently on one page. This new webpage also directs users directly to information they may wish to view, such as Beneficiary Records, Health Plan Finder, as well as Publicly Available Information in an A-Z index & the Status of their FOIA request. This feature enables the public to use the webpage for information and data that may have been requested in the past via a traditional FOIA request or additional telephone calls and correspondence to CMS FOIA staff. The revised CMS FOIA Web site was implemented in 2011 and has had 46,317 page views as of December 2011.

The FDA's Center for Tobacco Products (CTP) oversees the implementation of the Family Smoking Prevention and Tobacco Control Act. Some of the FDA's responsibilities under the law include setting performance standards, reviewing pre-market applications for new and modified risk tobacco products, requiring new warning labels, and establishing and enforcing advertising and promotion restrictions. The CTP was established in 2009, and it created a new FOIA office soon afterward. As part of CTP's compliance mission, and pursuant to the Family

Smoking Prevention and Tobacco Control Act, FDA contracts with states and territories to conduct compliance inspections of tobacco retailers. The first time an FDA tobacco compliance check reveals a violation, FDA intends to issue a Warning Letter. The FDA proactively posts every Tobacco Retailer Warning Letter that is issued. As of November 2011 FDA issued over 1,200 such letters, all of which are posted on FDA's website. Since January 1, 2011, there have been over 500,000 visits to the Tobacco Retailer Warning Letter page, with 648,190 page views. Letters are posted weekly by DFOI upon receipt from CTP. Members of the public can sign up to receive automated notifications when new letters are added (at least weekly). There are approximately 67,000 individuals or entities currently subscribed to receive Warning Letter updates by email. The FDA anticipates that as additional state contracts are awarded, the number of Tobacco Retailer Warning Letters will increase. The CTP also posts related information on its webpage, such as a list of retailers where no violations were observed during a compliance check inspection.

The NIH's release of the 12th edition of the Report on Carcinogens (ROC) was completed in June 2011. Responsible NIH staff worked closely with various HHS components to develop a coordinated aggressive outreach strategy. This included communicating with members of the public and with key stakeholders (academia, industry, Congress). The NIH established a dedicated website upon which was placed a wide variety of plain language materials developed to convey information about the ROC, including five new fact sheets, which were downloaded about 14,500 times within the first month after release, and a series of questions and answers of public interest. The NIH also issued a press release and hosted a media teleconference that included 105 participants on the day of the release.