

**Ash, Darren**

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**From:** Darren Ash  
**Sent:** Tuesday, October 16, 2007 12:43 PM  
**To:** Margie Janney; Russell Nichols  
**Cc:** Karen Olive  
**Subject:** Re: Chief FOIA Officer and Public Liaison Officer Training

Russ,  
Thanks. I will plan to take metro with you at 9:05 (meet on the platform?), but I will not travel back. I have another meeting downtown in the afternoon, so I am staying down there.  
Darren

>>> Russell Nichols 10/16/2007 12:40:48 PM >>>  
Darren and Margie,

The meeting on Thursday starts at 10: am. If you are interested in traveling from here via metro, a train leaves the White Flint platform at 9:05. We can switch to the blue line at Metro Center and be at the Federal Triangle stop at 9:35. That should give us plenty of time to walk across the street to the Department of Commerce building and get through security in time for the meeting. The metro fare is \$3.20.

If the meeting ends on time, we can easily catch the 12:33 orange line from Federal Triangle to Metro Center and switch to the red line and be back at White Flint around 1:08 pm. That fare is \$2.35 (off peak).

Please let me know if this is what you plan to do.

I won't be able to stay downtown for lunch because I have to get back to catch the bus to Executive Boulevard for a meeting that starts at 2:00 pm.

Russ

**Nichols, Russell**

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**From:** Darren Ash [DBA1@nrc.gov]  
**Sent:** Tuesday, October 16, 2007 4:03 PM  
**To:** Edward Baker; John Linehan; Russell Nichols; Karen Olive  
**Subject:** Fwd: 2007 Annual FOIA Reports -- Supplemental Guidance  
**Attachments:** 2007 Annual FOIA Reports -- Supplemental Guidance.txt

One new item for you

B-D

**Nichols, Russell**

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**From:** DOJ OIP FOIA [DOJ.OIP.FOIA@usdoj.gov]  
**Sent:** Tuesday, October 16, 2007 4:01 PM  
**To:** Patrick Rowe; Michael Conley; Medaris Oliveri; Eileen Mason; Kate Reynolds; Martin Hall; Eileen Donovan; Frank Trinity; Todd Stevenson; Christopher Warner; Beverly Hill; Hugo Teufel; Brian Grosner; John Hackett; Tricia Wellman; Peter B. McCarthy; Otto Wolff; Robert Shapiro; Lindy Knapp; Michell Clark; Peggy Mastroianni; Linda Travers; Joe Sorbera; Kathleen Buffon; Samuel Feder; Dorothy Nichols; Sara A. Kelsey; Lawrence Calvert; Thomasenia Duncan; Andrew Black; J. McLane Layton; Janice Kaye; Jill Crumacker; Bryant VanBrakle; Maria Fried; James Callear; Deborah Danker; Jennifer L. Johnson; David Shonka; Edward Blakely; Suzy DeFrancis; Ingrid Kolb; Keith Nelson; Rebecca Verreau; Carol Booker; David Hardy; Nancy Weiss; Michael Howell; Tanya M. Sandros; Victor Fortuno; John Mantini; mspb@mspb.gov; Arlin Winefordner; Gary Stern; David Mould; Lois Schiffer; Michael McKenna; Carole Watson; Joseph Valandra; Barry Kearney; Mary Johnson; Darren Ash; D. Matthew Powell; Robert Scherer; Mark Laponsky; Susan Propper; Austin Smythe; Edward Jurith; Mark Garfinkel; Janet L. Barnes; Erin McDonnell; Michael Donley; Alexander Fernandez; Stanley Sokul; Philip Hertz; Wil Bryant; Steven Williams; Steven Bartholow; Delorice Ford; Diego Ruiz; Thomas Crawley; Richard Flahavan; Rajkumar Chellaraj; Inez Hughes; Craig Keats; James Petrick; Emily Reynolds; Aldolfo Tarasiuk; Mosina Jordan; Emma Monroig; Boyd K. Rutherford; Rita M Morgan; Bertina Adams; Delores Killelte; Leocadia Zak; Carmen Suro-Brodie; Jim Tittsworth; Sally Wallace  
**Cc:** Carmen L Mallon; Kenneth A Hendricks; Melanie A Pustay; Thomas E Hitter  
**Subject:** 2007 Annual FOIA Reports -- Supplemental Guidance  
**Attachments:** Memo.Oct2007.Suppl.pdf

Chief FOIA Officers,

The attached memorandum provides supplemental guidance to agencies on preparing Section XII of their Fiscal Year 2007 Annual FOIA Reports.

<<Memo.Oct2007.Suppl.pdf>>



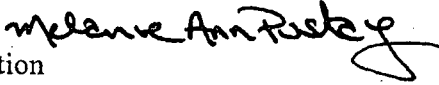
U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

To: Agency Chief FOIA Officers

From: Melanie Ann Pustay   
Director, Policy and Litigation  
Office of Information and Privacy  
Department of Justice

Date: October 16, 2007

Subject: Supplemental Guidance for Preparation and Submission of Section XII of Agency  
Fiscal Year 2007 Annual FOIA Reports

This memorandum provides supplemental guidance to agencies on preparing Section XII of their Fiscal Year 2007 Annual FOIA Reports. All agencies are required to complete Section XII of their Annual FOIA Reports pursuant to this guidance.

**BACKGROUND**

Under the 1996 FOIA amendments, all federal agencies are required to prepare annual reports of their FOIA activities at the end of the fiscal year and to submit them to the Attorney General by no later than February 1, in accordance with guidelines issued by the Department of Justice. See 5 U.S.C. § 552(e)(1) (2000 & Supp. IV 2004). Pursuant to Executive Order 13,392, a new section, Section XII, was added to the annual FOIA report last year to account for agency Executive Order implementation activity.

In Section XII, each agency is required to report on its progress made in meeting the milestones and goals of its FOIA Improvement Plan. Although the rest of the annual FOIA report is based on the fiscal year, the reporting period for all but element F of Section XII runs through December 31, 2007. Thus, for the first time, in the up-coming 2007 annual FOIA reports, most agencies will be reporting on a full twelve months of Executive Order implementation activity.

The format and basic requirements for Section XII were established by the Department of Justice last year, see *FOIA Post*, "Executive Order 13,392 Implementation Guidance" (posted 4/27/06); and agencies included this new section in their annual FOIA reports for Fiscal Year 2006. There are seven elements in Section XII, each designated by the letters A through G. This supplemental guidance provides further detail on those required elements and, significantly, also adds additional reporting requirements and a new template to complete for element F.

All agencies should follow the standard format set forth below for Section XII. Beneath each lettered heading we have provided additional clarifying guidance for completing that element.

## **SECTION XII GUIDANCE/TEMPLATE**

### **A. Description of supplementation/modification of agency improvement plan**

If your agency modified its plan, please provide the date and a description of the modification.

### **B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area**

Report on the successes your agency has achieved in implementing your FOIA Improvement Plan since last year's annual FOIA report. Additionally, if your agency submitted an Updated Status Report for August 1, 2007, you should, where appropriate, report on your agency's progress in meeting the remedial step deadlines set forth in that report.

Begin with a brief summary paragraph on your agency's overall implementation progress for this reporting period. Then provide a narrative description highlighting your agency's most noteworthy accomplishments.

### **C. Identification and discussion of any deficiency in meeting plan milestones (if applicable)**

Identify and account for any failure to meet a milestone or goal established in your FOIA Improvement Plan (i.e., a "deficiency"), that was not fully addressed by the time of your Fiscal Year 2006 annual FOIA report. Deficiencies include those milestones and goals that have fallen due, but remain incomplete, as well as those that were completed after the original due date. This element should also include any deficiencies that might have occurred subsequent to completion of your Updated Status Report that was submitted to the President's Management Council on August 1, 2007. It also should include any deficiency arising out of that Updated Status Report itself, such as proposed remedial steps that remain incomplete, or that were completed after the remedial step deadline.

In addition to identifying each deficiency and giving the original target date for completion, you must describe the steps that have been taken to date, and/or the steps that will be taken in the future, to remedy the deficiency.

Use the four items listed below to address these required elements for each deficiency. For any deficiency that has been remedied, report that fact in response to item number 4. To report on multiple deficiencies, simply repeat and answer these elements for each deficiency.

1. FOIA Improvement Plan area to which the deficient milestone relates.
2. Deficient milestone and the original target date from the FOIA Improvement Plan.
3. Steps taken to correct the deficiency and the dates by which the steps were completed.
4. Future remedial steps and the dates by which the steps will be completed.

**D. Additional narrative statement regarding other executive order-related activities (optional)**

Optional section where you may provide any additional narrative statement regarding executive order-related activities.

**E. Concise descriptions of FOIA exemptions**

Provide a brief description of the FOIA exemptions.

**F. Additional Statistics**

For the Fiscal Year 2007 annual FOIA report, this element has been significantly changed and expanded to make it more informative. This element now has two parts. The first part requires a listing of your agency's ten oldest pending FOIA requests, using the template provided. The second part requires information regarding consultations that your agency receives from other agencies. Many agencies receive significant numbers of in-coming consultations which necessarily consume agency time and resources. Agencies will now report on that FOIA activity in part two of element F, using the template provided.

**1. Ten Oldest Pending FOIA Requests**

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending requests as of January 1, 2008. Please list each request by the date it was received by your agency. (An illustrative example is provided in the template.)

Calendar Year	2000	2001	2002	2003	2004	2005	2006	2007
Requests	July 25	Oct 7	May 1 Sept 30	Apr 10	Jan 1 Dec 12	Feb 10 Mar 12 Jun 16		

## 2. Consultations

Note: If your agency's tracking system is unable at this time to compute any of these numbers regarding consultations, please indicate that in response to this part of element F. For any statistic that you cannot provide for Fiscal Year 2007, start preparing now to collect this consultation data so that you can report it for Fiscal Year 2008.

### a.) Number of Consultations Received, Processed, and Pending

Please provide the number of consultations received, processed, and currently pending, in the appropriate column below. (An illustrative example is provided in the template.)

Consultations Received From Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed by Your Agency During FY07 (includes those received prior to FY07)	Consultations Received From Other Agencies That Were Pending at Your Agency as of October 1, 2007 (includes those received prior to FY07)
5	8	21

### b.) Ten Oldest Pending Consultations Received From Other Agencies

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending consultations received from other agencies as of January 1, 2008. Please list each consultation by the date it was received by your agency. (An illustrative example is provided in the template.)

Calendar Year	1999	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received	Dec 5		Feb 19	Sept 12	Oct 7 Nov 17	Jan 13 May 3	Apr 8 Jul 6	Dec 5	

## G. Attachment: Agency Improvement Plan (in current form)

Attach a copy of the current version of your agency's FOIA Improvement Plan.

## SUBMITTING THE ANNUAL REPORT

The Office of Information and Privacy (OIP) reviews all agency annual FOIA reports as they are sent to OIP for centralized access on the Department of Justice's FOIA Web site. OIP then contacts individual agencies to discuss and resolve any identified question or discrepancy in its report. Once your agency completes its annual FOIA report for Fiscal Year 2007, it should be

submitted for review to OIP through Bertina Adams [Bertina.Adams@usdoj.gov]. All agencies should submit their reports to OIP as soon as they are complete, but no later than February 1, 2008, the deadline established in the FOIA. For questions about Sections I through XI of the Annual Report, contact Bertina Adams at 202-514-3642. For questions about Section XII, contact Ken Hendricks or Tom Hitter at the same telephone number.