

Ash, Darren

From: Darren Ash
Sent: Tuesday, June 17, 2008 3:37 PM
To: Joseph Holonich; James Schaeffer; Thomas Boyce (OIS)
Cc: Karen Olive
Subject: Fw: Guidance for Submitting Updated Status Reports pursuant to Executive Order 13,392
Attachments: DOJ's Guidance for Submitting Updated Status Reports.wpd

See below for use/action.

Thanks,
Darren

----- Original Message -----

From: DOJ OIP FOIA <DOJ.OIP.FOIA@usdoj.gov>
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Cc: Hendricks, Kenneth A <Kenneth.A.Hendricks@usdoj.gov>; Hitter, Thomas E <Thomas.E.Hitter@usdoj.gov>
Sent: Tue Jun 17 15:17:13 2008
Subject: Guidance for Submitting Updated Status Reports pursuant to Executive Order 13,392

To: All Chief FOIA Officers

Attached please find Department of Justice guidance for submitting Updated Status Reports pursuant to Executive Order 13,392, "Improving Agency Disclosure of Information." The submission process is the same as last year. Agency reports must be submitted in draft to the Department of Justice by July 15, 2008. After review by the Department of Justice, they must be submitted in final form to the Chair of the President's Management Council by August 1, 2008.

Please feel free to contact Melanie Ann Pustay, Kenneth A. Hendricks, or Thomas E. Hitter at the Office of Information and Privacy, Department of Justice at 202-514-3642 with any questions you may have.

<<DOJ's Guidance for Submitting Updated Status Reports.wpd>>

From: Department of Justice, Office of Information and Privacy
To: Agency Chief FOIA Officers
Subject: Updated Status Reports by Agencies That Reported Deficiencies in Their Implementation of Executive Order 13,392, "Improving Agency Disclosure of Information"

This memorandum provides guidance for reporting by August 1, 2008 on the progress that your agency has already made - - and has committed to make - - in remedying any deficiencies encountered in meeting a milestone in your agency FOIA Improvement Plan as reported in your 2007 Annual FOIA Report. The submission process is the same as last year. Any agency that did not have a deficiency (i.e., did not report any item in Section XII.C of its 2007 Annual FOIA Report) need not submit this Updated Status Report. Further, any agency that fully cured its deficiency by February 1, 2008, and reported it as cured, need not submit this Updated Status Report.

BACKGROUND

On May 30, 2008, the Attorney General issued his third Report to the President pursuant to Executive Order 13,392. This Attorney General Report is based on the Fiscal Year 2007 Annual FOIA Reports that agencies submitted earlier this year and provides an update on the agencies implementation of the FOIA and of their FOIA Improvement Plans. In accordance with Section 4(a) of the Executive Order, the Attorney General's Report includes recommendations for improving agency FOIA administration. The first recommendation requires that each agency that reported a deficiency in meeting one or more milestones in its FOIA Improvement Plan submit to the President's Management Council (PMC) an Updated Status Report regarding the corrective actions taken, or to be taken, regarding each deficiency.¹

REPORTING REQUIREMENTS

I. Timing of the Updated Status Report to the President's Management Council

In order to appropriately ensure that agency status reports incorporate the components detailed below, each agency must submit a draft of their Updated Status Report to the Department of Justice for review by July 15, 2008.

¹ The Report, found at: http://www.usdoj.gov/oip/ag_report_to_president06012008.pdf, stated: "By August 1, 2008, each agency that reported in its Fiscal Year 2007 Annual FOIA Report a deficiency in meeting one or more milestones in its FOIA Improvement Plan, that was not fully cured by the time of submission of the Annual FOIA Report, shall submit to the PMC an updated status report. This report shall describe the progress the agency has made in correcting the deficiency(ies), including any further corrective action that the agency has taken or will be taking."

Each agency, through its Chief FOIA Officer, must then submit a finalized and approved Updated Status Report to the Chair of the PMC by August 1, 2008. Each agency must also post the Updated Status Report on its FOIA website.

II. Preparing the Updated Status Report

As noted above, each agency that reported a deficiency in implementing the agency's FOIA Improvement Plan is now required to provide an Updated Status Report that will describe for the PMC the progress made in completing the corrective steps described in the Fiscal Year 2007 Annual FOIA Report. In order to comply with this requirement all agencies should follow the uniform template set out in part B below.

A. General Issues

1. A "deficiency" includes both the failure to meet a milestone, as well as the failure to meet it by the date specified.

2. Agencies' Updated Status Reports to the PMC need not address any deficiency that was corrected prior to February 1, 2008, and reported as such in the Fiscal Year 2007 Annual FOIA Report.

B. Template for the Updated Status Report

Agencies must complete the following template for each deficient milestone.

1. FOIA Improvement Plan area to which this deficient milestone relates.

Identify the appropriate FOIA Improvement Plan area.

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

Identify the deficient milestone and original target date listed in the agency's FOIA Improvement Plan.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

Describe the specific steps your agency has taken to date to correct the deficiency, including the dates by which your agency completed these steps. This should include every corrective step listed in Section XII.C.4 of your Fiscal Year 2007 Annual FOIA Report that your agency has completed since submission of the Annual Report.

4. Future remedial steps and the dates by which the steps will be completed.

If the deficiency is not yet cured, describe any additional steps that your agency will be taking in the future to correct the deficiency, including the dates by which your agency will complete these steps. This should include every corrective step listed in Section XII.C.4 of your Fiscal Year 2007 Annual FOIA Report that your agency has not yet completed.

III. Submitting the Updated Status Report

Each agency's Updated Status Report should be submitted by the agency's Chief FOIA Officer, using the template provided in part B above.

A. Guidelines for Submitting

1. By July 15, 2008, submit the draft Updated Status Report to DOJ for review by e-mail to kenneth.a.hendricks@USDOJ.gov with a copy to thomas.e.hitter@USDOJ.gov.

2. By August 1, 2008, submit the final, cleared Report to the Chair of the PMC, Clay Johnson, III, at the following fax number (202) 395-5730. There is no need to re-submit the Report to the Department of Justice.

B. Contacts

Agencies with questions regarding this matter should contact Ken Hendricks or Tom Hitter at the Department of Justice's Office of Information and Privacy at (202) 514-3642.