



Homeland Security

January 31, 2012

MEMORANDUM FOR: Department Distribution
Department Leadership and DHS FOIA Officers

FROM: Mary Ellen Callahan
Chief FOIA Officer 

SUBJECT: Government Openness: The Department of Homeland Security (DHS) applies both the letter and spirit of the Freedom of Information Act (FOIA)

Three years ago this month, President Obama stated that FOIA (5 U.S.C. § 552) should be administered with a clear presumption that openness prevails. The President went on to note that the “Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.”¹ This Office has frequently explained how this presumption of openness is to be applied at the Department of Homeland Security (Department). On the anniversary of the President’s directive, I am taking the opportunity to again remind Departmental leadership of their responsibilities under the FOIA and their obligation to implement the Administration’s policy on transparency and openness.

On May 28, 2009, I issued a memorandum that provided an overview of the requirements of FOIA. In that memorandum, I noted the President’s guidance and, based on FOIA policy and guidelines issued by the Attorney General in March 2009,² the importance of considering discretionary releases even where an exemption may apply. On August 26, 2009, I addressed the importance of proactive disclosure, not only to comply with the requirements of 5 U.S.C. § 552(a)(2), but to provide an even greater degree of openness.³ I directed that components include in their websites: historical daily schedules of most senior officials; executed contracts and grants; management directives and instructions; Congressional correspondence under DHS control; and FOIA logs, in addition to frequently requested records.⁴ Further, in my memorandum of March 16, 2010, I advised that the Department continue to implement actively the Administration’s sweeping policy changes, stressing again the importance of the presumption of disclosure and proactive disclosure requirements, noting specific progress in components’ proactive disclosure activity.⁵

¹ The President’s FOIA Memorandum of January 21, 2009 is available at http://www.justice.gov/oip/foia_guide09/presidential-foia.pdf.

² The Attorney General’s memorandum of March 19, 2009 is available at <http://www.justice.gov/ag/foia-memo-march2009.pdf>.

³ The *DHS Proactive Disclosure and Departmental Compliance with Subsection (a)(2) of the Freedom of Information Act (FOIA)* is available at http://www.dhs.gov/xlibrary/assets/foia/foia_proactive_disclosure.pdf.

⁴ See 5 U.S.C. § 552(a)(2)(D) regarding the requirement to post on line frequently requested records.

⁵ The *DHS Freedom of Information Act and Sunshine Week* is available at http://www.dhs.gov/xlibrary/assets/foia/priv_foia_sunshine_week_memo_2010-03-16.pdf.

Three years into the Obama Administration, I remind every employee of the importance this Department places on adhering to this Administration's openness policy. We operate with a presumption of disclosure, and we do not assert FOIA exemptions to prevent embarrassment of public officials or possible revelations of errors or failures, or because of speculative or abstract fears. Further, FOIA exemptions are to be applied to withhold information only where the deciding official reasonably foresees that release of the requested information would harm an interest protected by one of the FOIA exemptions or where release is prohibited by law.

Thank you for your continued support of the presumption of openness in FOIA. If there are any questions about the specifics of this memorandum or any other FOIA matter, please direct them to Delores Barber, Deputy Chief FOIA Officer, at 703-235-0790.