

February 1, 2012

## Tennessee Valley Authority (TVA) Chief FOIA Officer Report

### I. Steps Taken to Apply 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.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? *No.*
2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice? *No. However, the FOIA officer has attended workshops and conferences sponsored by the Department of Justice Office of Information Policy (OIP) and the American Society of Access Professionals (ASAP) in the past. TVA subscribes to access and privacy newsletters and monitors information provided by OIP and others in the access community to stay abreast of developments in FOIA law and practice.*
3. Did your agency make any discretionary releases of otherwise exempt information? *Discretionary release of whole or partial records is often possible. TVA conducts a thorough review of the records responsive to each request to determine whether full or partial disclosure is possible. TVA routinely makes discretionary releases of interagency and internal information.*
4. What exemptions would have covered the information that was released as a matter of discretion? *Exemption 5*
5. Describe your agency's process to review records to determine whether discretionary releases are possible. *The FOIA officer consults with TVA legal counsel and subject-matter experts to determine whether releasing a record in whole or in part presents a foreseeable harm to the agency. Records or parts of records for which no foreseeable harm is identified are released.*
6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. *TVA issued an agency-wide standard procedure on FOIA which is available to all employees and includes the standard of openness. In connection with this procedure, agency compliance staff completed an assessment of the FOIA program resulting in an overall good performance rating.*
7. Did your agency have an increase in the number of responses where records were released in full? *No.*
8. Did your agency have an increase in the number of responses where records were released in part? *Yes.*

### II. Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

Describe the steps your agency has taken to ensure that its system for responding to requests is effective and efficient.

1. Do FOIA professionals within your agency have sufficient IT support? *Yes.*
2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer? *Yes.*
3. Do your FOIA professionals work with your agency's Open Government Team? *Yes.*
4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration. *The FOIA officer and TVA's chief FOIA officer monitor requests and workload to maintain an adequate staff level. Additional support is available when needed. TVA's annual FOIA statistics indicate that adequate staff is devoted to responding to FOIA requests. The majority of FOIA requests are processed under Track 1, the fastest track.*
5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively. *The FOIA officer closely monitors the progress of information requests throughout the search and review process. The FOIA officer monitors and corresponds with field personnel responsible for providing information; monitors time required for review and channels requests into the appropriate processing track, requesting expedited review when warranted; and communicates regularly with those requesting records to clarify and modify requests as appropriate.*

### **III. Steps Taken to Increase Proactive Disclosures**

Describe 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).

1. Has your agency added new material to your website since last year? *The TVA website at [www.tva.gov](http://www.tva.gov) is updated continually throughout the year to provide the public with the latest information about TVA and its programs.*
2. Provide examples of the records, datasets, videos, etc. that have been posted this past year. *Fuel cost information, news releases, air and water quality information, lake levels, video of public meetings, fact sheets, power line right-of-way information, and forms for public feedback. The agency's response to the March 2012 tsunami and earthquake that affected nuclear plants in Japan was continually updated on the TVA website to keep the public informed about steps taken at TVA nuclear plants to maintain safety in the event of a similar natural disaster. In late April and early May, information was continually updated on the impact and recovery from extensive damage to the TVA power system caused by unprecedented outbreak of tornadoes that swept through the TVA service territory. Information was also posted on TVA's social media sites.*
3. Describe the system your agency uses to routinely identify records that are appropriate for posting. *Records are screened by a senior level Communications staff member and then peer-reviewed by agency subject-matter experts.*

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.? *TVA has made significant progress in providing information in multiple formats for users, including mobile sites compatible with both iPhone and Android applications. In addition, TVA has several feedback mechanisms in place for website visitors to comment on all aspects of the information posted. For example, when feedback from a viewer advised that some maps posted on the website were not clear, steps were taken immediately to improve the quality of the maps for the public.*
5. Describe any other steps taken to increase proactive disclosures at your agency. *Information is posted regularly to all TVA social media assets including Facebook and Twitter. The information is posted proactively and transparently for information disclosure rather than public relations or marketing.*

#### **IV. Steps Taken to Greater Utilize Technology**

##### Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency? *Yes.*
2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically? *TVA has a centralized FOIA office for the entire agency.*

##### Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically? *TVA provides a phone number on its website to call for status of a FOIA request.*
4. If not, is your agency taking steps to establish this capability? *We have not had any feedback from FOIA requesters that indicates this is necessary.*

##### 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? *TVA is in the early stages of a four-year project to implement an innovative, user-friendly electronic document and records management system.*
6. If so, describe the technological improvements to be made. *The electronic document and records management system will provide improved indexing and retrieval options, including a Google-type search and the ability to search multiple repositories with a single login. The system will have integration with many standard tools which will reduce manual processes such as printing and scanning.*

#### **V. Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs**

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.
  - a) Does your agency utilize a separate track for simple requests? *Yes.*
  - 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? *Yes.*
  - 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? *N/A.*
  
2. Section VII.A 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. 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.*
  - b) If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010? *N/A. TVA had no backlog of administrative appeals.*
  - c) In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010? *No.*
  - d) In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of the Fiscal Year 2010? *TVA had no administrative appeals pending at the end of Fiscal Year 2010.*
  
3. If you answered "no" to any of the above questions, describe why that has occurred. *There are two requests from 2010 that were not closed in 2011. These requests are pending clarification of the status of the requester for fee purposes.*

Request Backlog:

- a) Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests? *N/A.*
- b) Was the lack of a reduction in the request backlog caused by a loss of staff? *N/A.*

- c) Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received? *N/A.*
- d) What other causes, if any, contributed to the lack of a decrease in the request backlog? *N/A.*

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? *N/A. TVA had no backlog.*
- b) Was the lack of a reduction in the appeal backlog caused by a loss of staff? *N/A. TVA had no backlog.*
- c) Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received? *N/A. TVA had no backlog.*
- d) What other causes, if any, contributed to the lack of a decrease in the appeal backlog? *N/A. TVA had no backlog.*

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.

- 1. Does your agency routinely set goals and monitor the progress of your FOIA caseload? *Yes. The FOIA officer's annual performance review includes specific goals for responding to FOIA requests.*
- 2. Has your agency increased its FOIA staffing? *No. Additional personnel are available to assist with complex requests or requests involving a large volume of records.*
- 3. Has your agency made IT improvements to increase timeliness? *Yes. Increased use of scanning equipment to convert hard copy documents to electronic documents enables e-mailed responses to FOIA requesters. Use of shared drives internally to transmit documents to the FOIA office has saved time.*
- 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? *TVA receives very few consultation requests and priority is given to process these in a timely manner.*

**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).

- 1. Did your agency invoke a statutory exclusion during Fiscal Year 2011? *No.*

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

### **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.

*In late April 2011 the Tennessee Valley experienced wide spread storm and tornado damage. An extensive number of transmission lines were destroyed which resulted in power outages across much of northern Mississippi, portions of northern Alabama, and parts of Tennessee. Several power plants were taken offline due to damage to the transmission system.*

*TVA immediately began developing communications to inform the media and key stakeholders of storm events affecting the TVA power system. Over the course of the following week, 24 storm updates were provided to employees, news media and posted on the TVA website. Two fact sheets and seven news releases were distributed. The TVA Chief Operating Officer held two press briefings and recorded two video statements that were posted on the TVA website. TVA also posted information about power restoration and storm damage recovery on Facebook and Twitter. The social media interaction with the public was the most significant since TVA began utilizing this new media about two years ago.*