



United States International Trade Commission

2013 CHIEF FOIA OFFICER REPORT



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INTRODUCTION

The United States International Trade Commission (USITC or Commission) was established in 1916. It is an independent, nonpartisan federal agency whose mission is to: (1) administer U.S. trade remedy laws within its mandate in a fair and objective manner; (2) provide the President, the United States Trade Representative (USTR), and Congress with independent, quality analysis, information, and support on matters relating to tariffs and international trade and competitiveness; and (3) maintain the Harmonized Tariff Schedule of the United States. In so doing, the Commission serves the public by implementing U.S. law and contributing to the development of sound and informed U.S. trade policy.

The USITC fulfills its mission and serves the nation through five major operations. These are:

- **Import injury investigations:** involves determining whether certain unfairly traded imports (antidumping and countervailing duty investigations) and increased imports (safeguard investigations) injure or threaten to injure U.S. industries;
- **Intellectual property-based import investigations:** involves directing actions, subject to Presidential disapproval, against certain unfair practices in import trade, such as patent and trademark infringement;
- **Industry and economic analysis:** involves conducting objective analyses of major trade-related issues; estimating the probable economic effects of trade agreements; and analyzing the competitiveness of specific industries;
- **Tariff and trade information services:** provides reliable and timely trade information and analysis for the Commission, the Congress, the executive branch, and the general public; and
- **Trade policy support:** involves direct technical support by USITC staff to the USTR, congressional committees and Members of Congress, interagency committees, and U.S. delegations to multilateral trade organizations, such as the World Trade Organization.

The USITC's FOIA program is administered by the Chief FOIA Officer with the assistance of the FOIA Liaison. As a small agency, the USITC maintains staff commensurate with the agency's needs to effectively implement its FOIA program.

SECTION I: STEPS TAKEN TO APPLY THE PRESUMPTION OF OPENNESS

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

Agency-wide training on information security includes FOIA awareness and responsibilities. Agency staff is reminded of their responsibilities when asked to research a FOIA request.

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

During calendar year 2012, FOIA staff attended the Department of Justice's training session on the new guidelines.

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

We rarely deny requests outright and we supply as much information as possible in response to FOIA requests, however we have received requests for information subject to FOIA exemptions. During the time period covered by this report, we did not make discretionary releases.

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

We have not made discretionary releases of information.

4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

N/A

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

Only two requests were denied in full due to exemptions. The Commission's practice was already consistent with the Administration's openness initiative when it began. The FOIA Office continually reviews its processes for searching for records, compiling data, and disclosing information to ensure its compliance with openness guidelines.

SECTION II: STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS

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

Yes. Our IT staff is very supportive and has assisted the FOIA team with FOIA requests this reporting period. We also work closely with the IT team regarding web postings, improvements to the FOIA database, and maintenance of the web interface for electronic filing of requests.

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

Our FOIA professionals are members of the Open Government Team.

3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?

Our response time is analyzed each year to determine that we are meeting the statutory due date. Staff is considered adequate to meet the current requirements of FOIA processing. The Commission receives a relatively small number of FOIA requests annually, and the current staff is able to process requests, coordinate searches with program offices, and respond within the guidelines that apply.

4. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, streamlining consultations, eliminating redundancy, etc.

We are continuing to implement the recent 2011 recommendations for improvements provided by the USITC Inspector General, such as:

- Use processing guidelines for all FOIA requests to ensure standard approach to all requests. Provide guidance to program offices.
- Require staff to attend annual FOIA training and conference events.
- Use an internal checklist to ensure proper handling of every FOIA request.
- Utilize a form for program offices to document where they searched, how the search was conducted, time taken, grade of staff (for fee calculation) and listing all responsive documents.

SECTION III: STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

1. Provide examples of material that your agency has posted this past year.

The Commission continues to provide publicly available information via its website. During this reporting period, the Commission provided material such as:

- Federal Register notices (published over 700 notices in the Federal Register),
- Publications (made over 1100 additional publications available online),
- Statistical data regarding investigations before the Commission (for example, last fiscal year instituted 48 new Section 337 investigations),
- Electronic Document Information System (EDIS) (posted more than 23,000 documents),
- Numerous press releases (over 100 press releases issued and posted on the agency's website), and
- The Harmonized Tariff System (HTS) (responded to approximately 4.5 million requests for tariff information annually, with the website receiving 6.3 million hits annually).

2. Beyond posting new material, is your agency taking steps to make the posted 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 on the site, creating mobile applications, providing explanatory material, etc.?

We perform routine user surveys and respond to inquiries from the public on a regular basis. Commission staff regularly meets with customer groups, such as organizations that practice before the Commission, and solicits feedback from them. Generally the Commission rates well in surveys as to responsiveness and the information provided.

3. If so, provide examples of such improvements.

Please see above.

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

The USITC continually strives to excel in transparency of its activities. We have various types of media and information on our website that is useful to the public such as a calendar of Commission hearings and other meetings, notices regarding developments in investigations before the Commission, press releases regarding both specifics of investigations as well as overall Commission activities, our budget justification and annual performance reports to Congress, and many

planning and organization related documents. The agency also provides substantive reports and frequently asked questions (FAQs) covering its major operations. All of these activities are part of the Commission's proactive disclosure activities.

SECTION IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

ELECTRONIC RECEIPT OF FOIA REQUESTS:

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

Yes. Requests can be made directly via email or online through our web portal.

2. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency?

No. The Commission is centralized in one building. Due to the relatively small number of our FOIA requests and a small agency staff, our one FOIA program office handling FOIA requests is an efficient use of our resources.

ONLINE TRACKING OF FOIA REQUESTS:

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

No. We receive a small number of FOIA requests and our contacts with requestors are via telephone or email regarding the status of their requests. Since requestors receive direct contact with our office, we've received positive feedback that personal interaction with the FOIA Office staff is helpful.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

N/A

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

N/A

6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?

No. However the agency continues to review the FOIA webpage to determine improvements that will assist the public.

USE OF TECHNOLOGY TO FACILITATE PROCESSING OF REQUESTS:

7. 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.

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

The USITC recently changed its search engine in EDIS to a new and more robust platform. This new platform improves our web-based search and cataloging of documents. This enhanced capability allows the public to locate and access documents faster and with more ease.

SECTION 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. 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?

The Commission uses separate tracking for simple requests.

b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?

Simple requests were processed within twelve (12) working days on average.

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. 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 2012 as compared to Fiscal Year 2011. 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 2011 and Fiscal Year 2012 should be used for this section.

a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?

The Commission had no backlog of requests for Fiscal Year 2012.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?

The Commission had no backlog of administrative appeals for Fiscal Year 2012.

- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?

The Commission had no old requests pending from Fiscal Year 2011 at the end of Fiscal Year 2012.

- d. d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?

The Commission had no old administrative appeals pending from Fiscal Year 2011 at the end of Fiscal Year 2012.

- 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:**

REQUEST BACKLOG:

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

No. The USITC did not have a backlog of FOIA requests in either FY 2011 or FY 2012.

- 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?

No. The USITC did not have a backlog of administrative appeals in either FY 2011 or FY 2012.

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

N/A

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

N/A

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

N/A

- 4. OIP has issued [guidance](#) encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.**

N/A

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 2012?**

No.

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

None.

SPOTLIGHT ON SUCCESS

Out of all the activities undertaken by your agency since March 2012 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. The success story can come from any one of the five key areas.

During this reporting period, the FOIA Program office received a request for records regarding website development, procurement, maintenance or use by our agency involving compliance with the Section 508 of the Rehabilitation Act. The FOIA Program office worked with our Office of General Counsel and our E-Business, Information Technology team to identify responsive documents, review numerous documents, and supply the releasable documents in the request format (via compact disc) within the statutory deadline. The agency provided relevant documents supporting compliance with the Act and those documents were provided to the requester.

In addition, we had a small number of FOIA's this fiscal year and out of the thirty-seven received over half were given a full grant and or partial response to their requests. Even though the requirements are mandatory, we want to acknowledge that we gladly take pride in continuing to meet the needs of our requesters and being a service to the FOIA community.



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