

Good Afternoon-

I just wanted to let you know that House Oversight and Government Reform Committee Chairman Darrell Issa, R-Calif., and Ranking Member Elijah Cummings, D-Md., have introduced the FOIA Oversight and Implementation Act of 2013. The bill number is H.R. 1211. Click [here](http://1.usa.gov/12WyKGS) (<http://1.usa.gov/12WyKGS>) for text of the legislation as introduced.

**There are a few changes between the bill circulated Monday and the one introduced today.**

- Agency annual FOIA reports and the Attorney General's FOIA reports must be completed by March 1 of each year, instead of April 1. This will allow Congress and the public to access information about FOIA compliance before the annual Sunshine Week in March.
- The Chief FOIA Officer Council shall be run jointly by the National Archives and Records Administration Office of Government Information Services (FOIA Ombudsman) and the Department of Justice Office of Information Policy.

A summary updated to reflect those changes is enclosed below and can be found online [here](http://oversight.house.gov/release/issa-cummings-unveil-foia-oversight-and-implementation-act/) (<http://oversight.house.gov/release/issa-cummings-unveil-foia-oversight-and-implementation-act/>). **In order to make it easier to see the changes FOIA 2013 makes to current law, click here for a [redline version](http://1.usa.gov/16xIAPD) (<http://1.usa.gov/16xIAPD>).**

**The FOIA Oversight and Implementation Act of 2013**

**Establishes Presumption of Openness**

The bill would enact a policy in Attorney General Holder's 2009 memorandum on FOIA to require agencies to process FOIA requests with a presumption of openness. Under this act, agencies may only withhold information if the disclosure of such records could cause foreseeable harm. It places the burden on agencies to demonstrate why information may be withheld, instead of on the public to justify release.

**Requires Agencies To Post Frequently Requested Information**

Agencies will post all releasable information requested three or more times online in a publicly accessible format. Agencies shall also review their systems of records and post releasable information online if it is likely to be in the public interest.

Agency annual FOIA reports will require agencies to report how many records it made available proactively. All raw data in agency FOIA reports will be available online in an accessible and fully useable format.

**Establishes Single Portal for FOIA Requesters**

The act will establish a pilot program to review [FOIAonline](http://foiaonline.regulations.gov/) <http://foiaonline.regulations.gov/>, the public portal that allows requesters to submit and review requests for multiple agencies at a single location. No later than one year after enactment, OMB shall establish a single access site (such as [FOIAonline](http://foiaonline.regulations.gov/) <http://foiaonline.regulations.gov/>) that will allow requesters to submit requests and review the status of their requests at a single location.

### **Strengthens the FOIA Ombudsman (Office of Government Information Service)**

The Office of Government Information Service (OGIS) will have increased independence, and shall report directly to Congress without interagency review. It will review agency compliance with all aspects of FOIA, and report to Congress its recommendations for policy changes. All reports shall be made publicly available online.

OGIS will hold public meetings at least once a year to allow interested persons to submit written or oral statements on FOIA and OGIS's reviews of FOIA compliance.

### **Strengthens Oversight and Review of FOIA Compliance**

OGIS and the agency Chief FOIA Officers shall be responsible for reviewing FOIA compliance regularly. These reviews shall include review of fee assessment and waivers, backlogs, overuse of exemptions, and other problems with FOIA. Agencies will also be responsible for reporting more information on FOIA including the number of times it posted records proactively, engaged in dispute resolution, and invoked law enforcement exclusions.

### **Strengthens Dispute Resolution**

The act will allow requesters to have 90 days to file an appeal under FOIA (previously undefined), as well as require agencies to inform requesters of their right to seek mediation services and dispute resolution from both OGIS and the agency's Chief FOIA Officer. Agencies will also have to report the number of times it engaged in dispute resolution and update their regulations to provide direction to agencies on mediation services.

### **Mandates FOIA Regulations Updates**

Each agency shall update its FOIA regulations within 180 days of enactment. The regulations shall include procedures on dispute resolution and working with OGIS. OGIS will review whether agencies comply with this, and if agencies fail to update their regulations they will have to report to Congress on their failure to do so and will be subject to a review of their FOIA compliance by their Office of Inspector General.

### **Establishes Chief FOIA Officer Council**

A Chief FOIA Officer Council, modeled after the CIO Council, shall be run jointly by OGIS and DOJ's Office of Information Policy as joint vice-chairmen. All agency Chief FOIA Officers shall be members of the Council. The Council will meet regularly to review FOIA compliance and discuss improvements. Records of the meetings shall be publicly available, and all meetings shall be noticed in the Federal Register beforehand. No less than once a year, the Council shall have a public meeting where interested persons may submit statements in writing or in person.

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