



Support for OpenFOIL Portal Legislation

Introduction

The proposed legislation for an online freedom of information law (“FOIL”) request tracking portal would greatly benefit New Yorkers. This portal would centralize the process of requesting records from City agencies for the public, and vastly streamline every step of the process of responding to FOIL requests for records access officers. It would catalyze the City open data initiative by allowing for analytics-based publication of open data sets. It would simply improve public access to information, and do so while saving taxpayers \$13 million per year.

What the FOIL Portal Does

The portal offers numerous benefits to the public and agencies:

- All requests and responses are archived and publicly searchable. Members of the public will see if their question has already been asked and answered. Records access officers will avoid repeat requests for the same information.
- Records access officers will have the benefit of automated tools in the portal which track requests and generate applicable correspondence for each step.
- Records officers will upload responsive documents to the portal and “attach” them to the applicable request, where records access officers will review, redact, and release them in digital formats.
- Redacting records will also be done within the portal itself, without the need to print, manually redact, and re-scan thousands of sheets of paper.
- FOIL responses will no longer need to be mailed on CDs if they’re too large to email. Records officers will upload responses to the portal for public download.

The Benefits of Open FOIL

New York City will save at least \$13 million annually by implementing an open and automated FOIL process through the OpenFOIL portal. This savings will come from improved efficiency in the FOIL response process at City agencies. There are roughly 50,000 FOIL requests filed in the City, and at an average cost of \$400 per request, the FOIL regime costs \$20 million annually. Automated



FOIL processing technology like that included in the Open FOIL portal has reduced the cost of FOIL responses by between 66% and 90% elsewhere, which represents savings of at least \$13 million.

There is currently no information about the cost of responding to FOIL requests in New York City, and limited information about the volume of requests at City agencies. However, we can estimate the potential savings based on evidence from the numerous governments nationwide which have already adopted automated FOIL processing software. There are too many examples at the federal, state, and local government level to list them all here, but a selection will demonstrate our conservative

Massive Efficiency Gains

Numerous federal agencies and departments make use of this kind of software and have seen dramatic improvements in efficiency. For example, the US Department of Defense has reduced its FOIA-related labor costs by 33%, and estimated that the use of digital redaction tools (of the kind required by this proposed legislation) would reduce FOIA costs by up to 90%. The New York State Department of Health adopted an award-winning automated FOIL processing system¹ and has since cut its average time to respond to a FOIL request by more than 50%; previously, the average response time for requests exceeded the statutory time limit. The new system has also reduced the FOIL backlog by over 90%.

These kinds of improvements come not just from speeding the process of gathering and reviewing records, but also in records staff and management having a complete view of the state of FOIL at their agency. Resources can be allocated intelligently and work can be effectively coordinated within departments. Duplicate requests are eliminated. Correspondence is automatically generated. Redaction is streamlined with digital tools instead of markers and photocopies.

Estimating the Cost of FOIL

To calculate the savings, we must apply the efficiency improvements to our current FOIL costs. Again, neither City nor the State of New York collect any information about how much they spend on FOIL in a year. But we know that at the federal level, where Freedom of Information Act (“FOIA”) requests and their



costs are quantified in annual reports,² the average cost of responding to a FOIA request (excluding litigation) is roughly \$658.³ In the United Kingdom, where the average cost is roughly \$490,⁴ roughly 15-20% of requests to the central government go through an online FOI portal.⁵

The City's \$400 cost per FOIL request is based on a 2011 report⁶ on the costs associated with FOIL requests in New York State, which showed that simply locating records responsive to a request costs, on average, nearly \$100. This doesn't account for copying, reviewing, and redacting the records, or litigating appeals. The federal government includes all of those costs in its annual FOIA reports, and notes each request costs \$658 on average, or \$608 excluding litigation; in the UK, it's \$450 per request. Both governments are working with automated FOIA processing software. The City has made no such investment yet, but nonetheless, an extremely conservative estimate of \$400 per FOIL request – about 40% less than the federal average, under the UK's average – is applied here.

Annual Volume of FOIL Requests

The City's FOIL volume is public thanks to then-Public Advocate de Blasio's 2013 report surveyed on the City's FOIL responses, which found the annual FOIL volume for the City agencies in the report is more than 40,000 requests. De Blasio's office surveyed just 38 agencies; the City web site lists almost 130 agencies. Even assuming the 38 surveyed agencies were the ones with the highest FOIL volume, there are nearly 100 other agencies subject to FOIL unaccounted for in the survey. The annual FOIL volume of all agencies is likely close to 50,000 requests, which is the number we have used for our estimates.

Secondary Benefits

In addition to saving money, the FOIL portal will give an unprecedented picture of the City's fundamental transparency device: the FOIL process. By quantifying the process at every step, City officials will be able to see what's working and what's not working with FOIL. De Blasio's 2013 report gave only 5 agencies an A, and found that fully 10% of requests fell through the cracks and were lost or otherwise ignored. The wildly inconsistent statistics from agency to agency are indicative of a process that is dysfunctional and in need of management.



When the City begins measuring FOIL, it can manage FOIL. Best practices from one agency can be repeated at other agencies, and agencies which are struggling because of a lack of resources (and not because of a poor workflow) can get the recognition and help they need to remain compliant.

In addition to FOIL metrics being critical to the management of FOIL, they can help inform the release of data from agencies to the public as open data, as well as between two agencies or two parts of the same agencies. The City has heavily invested in data exchanges of high value data both internally and externally, using the Office of Analytics's DataBridge to share data with agencies and other stakeholders.⁷ With a big-picture view of FOIL requests, city managers can more completely understand what stakeholders need, and power the release of data.



References

¹ New York State Department of Health, *Technical Implementation: Smart FOIL Processing System*, September 2010: <http://www.emc.com/collateral/customer-profiles/h8732-new-york-state-dept-health-cp.pdf>

² United States Department of Justice, *Annual FOIA Reports*, visited April 3, 2014: <http://www.justice.gov/oip/reports.html>

³ United States Department of Justice, *Summary of Annual FOIA Reports for Fiscal Year 2012*, July 18, 2013: <http://www.justice.gov/oip/docs/fy2012-annual-report-summary.pdf>

⁴ *The Cost of Freedom of Information*, Anna Colquhoun, University College London, December 2010, <http://www.ucl.ac.uk/constitution-unit/research/foi/countries/cost-of-foi.pdf>

⁵ What Do They Know, visited April 3, 2014: <https://www.whatdotheyknow.com/help/about>

⁶ Jennifer Royer, *Balancing Transparency, Privacy, Technology, and Efficiency: Implementing Broome County's Freedom of Information Law in the 21st Century*, 2011: <http://www2.binghamton.edu/ccpa/public-administration/current-students/capstone/Royer%20Final.pdf>

The \$100 figure is derived from the hourly labor cost for agency employees in Broome County, New York locating records responsive to FOIL requests, adjusted for the average salary statewide in New York, using data compiled by the Fiscal Policy Institute in *New York State Regional Wage/Salary/Cost of Living Differentials*, 2007: http://www.nyspef.org/pst2007/files/appendix_revised.pdf

⁷ NYC Analytics, *NYC by the Numbers Annual Report - 2013*, December 2013: http://www.nyc.gov/html/analytics/downloads/pdf/annual_report_2013.pdf