June 8, 2023

Dear FOIA Advisory Committee,

I am writing on behalf of my organization, the Environmental Data and Governance Initiative (EDGI), with regard to the plans to decommission FOIAonline and launch independent FOIA case management systems at different agencies.

As you all know, FOIAonline has been a critical tool for government transparency for more than a decade. Launched in 2012 by the Environmental Protection Agency, it became an important exemplary plank for a broad effort by the Obama Administration to "make FOIA work better for American citizens" as well to better enable "openness and transparency in government." But the decision to decommission FOIAonline was made by EPA without providing any opportunity for input by the requester community or broader public. And instead of pledging a broad and continuing commitment to improving openness and transparency, the announcement came only with extremely limited public information about what is to replace FOIAonline. We only learned that commercial entities will be involved. It remains unclear what, if any, guidance or requirements decision-makers have given agencies that now have to provide their own FOIA portals regarding portal features and capabilities.

EDGI is deeply concerned both by what this decision-making process suggests for the direction of federal transparency, and for what the direct impacts of this decision may be for public information. Given the lack of public information regarding this transition away from FOIAonline or requirements for new agency portals, we wonder if the presumption about FOIAs developed during the Obama years, that "a release to one is a release to all," is still true, especially as the dropping costs of digital storage and other innovations make broad public access easier.

At the most basic level, we are concerned about what the closure of FOIAonline might suggest about a federal commitment to *keep* successfully disseminated documents available to a broader public. Will formerly participating agencies be required to repost on their new FOIA portals all of the records that had previously been made available through FOIAonline? Or will the decommissioning of FOIAonline mean that the federal government is intentionally making public records more challenging to access? If this decision were to render these documents released from 2012 to 2023 accessible to only those within agencies, that would constitute a retreat from the spirit of Freedom of Information laws. Even if a non-governmental entity were to post a public archive of all these records from FOIAonline, that would effectively entail a privatization of the federal government's digital archive–with remarkably little, if any, public scrutiny or discussion for such a far-reaching decision.

Environmental Data
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In order to ensure that the decommissioning of FOIAonline is not a retreat in federal transparency and that public access to information is maintained, not hindered, in this process, the services offered by FOIAonline should be the baseline upon which to build and improve.

We expect, in particular, these features to be preserved:
  (1) The public posting of completed requests.
  (2) The ability to search for completed requests, including across multiple agencies.
  (3) The preservation of public access to the records that have already been made public through FOIAonline.

In order to effectively leverage the investments each formerly participating agency is making in deploying independent FOIA portals, however, it is critical not just to preserve the status quo but to harness this as an opportunity to institute improvements to the FOIA process across the government. Consider the efficiencies gleaned by both the requester community and federal FOIA offices by enhancing the search functionality and formatting for publicly posted records. The better the public is able to find and efficiently comb records that have already been collected and disseminated, the fewer duplicative or overlapping requests will be filed, and the more specific requesters will be in new requests. Implementing improvements in the search functionality of FOIA portals and in the formatting and labeling of records obtained through FOIA could finally actualize the intention of FOIAonline: more efficient agency fulfillment of public record requests as well as broader and more effective public usage of the FOIA system.

We strongly encourage the FOIA Advisory Committee to request the following improvements be made to FOIA portals across the government:
  (1) **Expanding public access to completed requests**. We recommend the public posting of 100% of completed FOIA requests, and as well as producing publicly accessible data regarding the percentage of FOIA'ed records that are posted publicly through agency FOIA portals.
  (2) **Formating record files to facilitate use by the requester community**. Combining large numbers of documents into single sizeable pdfs to release them is extremely inefficient for requesters. It poses additional accessibility hurdles to other members of the public who may also be interested in what is released, since they must repeatedly download and scan through pdfs whose labels bear no relation to actual content. Utilizing these records is challenging, especially for small public interest groups, not to mention those with limited software or internet access including low-income communities and persons. We offer the following suggestions for improving access by "all":
      (a) Agencies should post ZIP files that contain multiple pdfs rather than combine several pdfs into a single large file. At the very least, agencies should be required to insert regular bookmarks at the start of different documents in larger files, which pdf software can then use to separate files into their components.

(b) Agencies should be required to develop and post more information about what is contained in each FOIA response. A simple legend, for instance, could provide basic information about what is contained in the files (e.g. "emails from OSTP").

(c) Finally, we suggest the implementation of a browser-based record viewer such that the requester community can simply peruse online rather than download every file in order to quickly assess whether or not a given file is of interest. The development of a browser-based viewing system would be particularly effective in reducing inequities in access to information, such as between people whose primary online device is a phone versus a computer.

(3) **Enhancing search functionality**. Agency portals can provide metadata input opportunities for requesters that will also serve as search fields. For example, agencies could create a dictionary of keywords that requesters can apply to their request. They could also offer a menu of offices within agencies that requesters can select as applying to their request. Portals could enable requesters as well as agency FOIA officials the opportunity to provide links to one or more related requests. Ensuring that not just the requester of a set of documents but everyone can search by those fields will hopefully address some of the inadequacies and inaccuracies in the current search system.

Providing the public with access to public records as well as more effective routes toward finding and utilizing the information these contain is not only a win for transparency, informed citizenry, and democracy; it is a win for government efficiency and the ethos of proactive disclosure.

We appreciate the FOIA Advisory Committee's attention to this matter to ensure that the planned decommissioning of FOIAonline does not negatively impact the public's ability to obtain information and documents to which it has been and should be entitled, nor hinder agencies' ability to comply with the Freedom of Information Act. Further, we hope this body will utilize this planned transition as an opportunity to guide more effective FOIA practices.

We at the Environmental Data and Governance Initiative would welcome the opportunity to speak further with representatives from the FOIA Advisory Committee about these recommendations and requests.

Sincerely,

Gretchen Gehrke

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Environmental Data and Governance Initiative

https://envirodatagov.org/