

113TH CONGRESS
2^D SESSION

H. R. 1211

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2014

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend section 552 of title 5, United States Code (commonly known as the Freedom of Information Act), to provide for greater public access to information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “FOIA Oversight and
3 Implementation Act of 2014” or the “FOIA Act”.

4 **SEC. 2. FREEDOM OF INFORMATION ACT AMENDMENTS.**

5 (a) **ELECTRONIC ACCESSIBILITY.**—Section 552 of
6 title 5, United States Code, is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)—

9 (i) by striking “for public inspection
10 and copying” and inserting “in an elec-
11 tronic, publicly accessible format” each
12 place it appears;

13 (ii) by striking “; and” and inserting
14 a semicolon;

15 (iii) by striking subparagraph (E) and
16 inserting the following new subparagraphs:

17 “(E) copies of all releasable records, regardless
18 of form or format, that have been requested three or
19 more times under paragraph (3); and

20 “(F) a general index of the records referred to
21 under subparagraphs (D) and (E);” and

22 (iv) in the matter following subpara-
23 graph (F) (as added by clause (ii) of this
24 subparagraph)—

1 (I) by striking “subparagraph
2 (D)” and inserting “subparagraphs
3 (D) and (E)”; and

4 (II) by striking “subparagraph
5 (E)” and inserting “subparagraph
6 (F)”; and

7 (B) in paragraph (7)—

8 (i) in subparagraph (A), by striking
9 “that will take longer than ten days to
10 process”; and

11 (ii) in subparagraph (B), by inserting
12 “automated” after “provides”;

13 (2) in subsection (g), by striking “make publicly
14 available upon request” and inserting “make avail-
15 able in an electronic, publicly accessible format”;
16 and

17 (3) by adding at the end the following new sub-
18 section:

19 “(m) FOIA WEB SITE REQUIRED.—Not later than
20 one year after the date of enactment of this subsection,
21 the Office of Management and Budget shall ensure the
22 existence and operation of a single website, accessible by
23 the public at no cost to access, that allows the public to—

24 “(1) submit requests for records under sub-
25 section (a)(3);

1 “(2) receive automated information about the
2 status of a request under subsection (a)(7); and

3 “(3) file appeals.”.

4 (b) PRESUMPTION OF OPENNESS.—Section 552(b) of
5 title 5, United States Code, is amended in the matter fol-
6 lowing paragraph (9), by inserting before “Any reasonably
7 segregable portion” the following: “An agency may not
8 withhold information under this subsection unless such
9 agency reasonably foresees that disclosure would cause
10 specific identifiable harm to an interest protected by an
11 exemption, or if disclosure is prohibited by law.”.

12 (c) THE OFFICE OF GOVERNMENT INFORMATION
13 SERVICES.—Section 552 of title 5, United States Code,
14 is amended—

15 (1) in subsection (a)(4)(A)(i), by striking “the
16 Director of the Office of Management and Budget”
17 and inserting “the Director of the Office of Manage-
18 ment and Budget, in consultation with the Director
19 of the Office of Government Information Services,”;
20 and

21 (2) by amending subsection (h) to read as fol-
22 lows:

23 “(h) THE OFFICE OF GOVERNMENT INFORMATION
24 SERVICES.—

1 “(1) ESTABLISHMENT.—There is established
2 the Office of Government Information Services with-
3 in the National Archives and Records Administra-
4 tion. The head of the Office is the Director of the
5 Office of Government Information Services.

6 “(2) REVIEW OF FOIA POLICY, PROCEDURE,
7 AND COMPLIANCE.—The Office of Government In-
8 formation Services shall—

9 “(A) review policies and procedures of
10 agencies under this section;

11 “(B) review compliance with this section
12 by agencies;

13 “(C) identify methods that improve compli-
14 ance under this section that may include—

15 “(i) the timely processing of requests
16 submitted to agencies under this section;

17 “(ii) the system for assessing fees and
18 fee waivers under this section; and

19 “(iii) the use of any exemption under
20 subsection (b); and

21 “(D) review and provide guidance to agen-
22 cies on the use of fees and fee waivers.

23 “(3) MEDIATION SERVICES.—The Office of
24 Government Information Services shall offer medi-
25 ation services to resolve disputes between persons

1 making requests under this section and agencies as
2 a non-exclusive alternative to litigation and, at the
3 discretion of the Office, may issue advisory opinions
4 if mediation has not resolved the dispute.

5 “(4) SUBMISSION OF REPORT.—

6 “(A) IN GENERAL.—The Office of Govern-
7 ment Information Services shall not less than
8 annually submit to the committees described in
9 subparagraph (C) and the President a report on
10 the findings from the information reviewed and
11 identified under paragraph (2), a summary of
12 the Office’s activities under paragraph (3) (in-
13 cluding any advisory opinions issued), and legis-
14 lative and regulatory recommendations to im-
15 prove the administration of this section.

16 “(B) ELECTRONIC AVAILABILITY OF RE-
17 PORTS.—The Office shall make available any
18 report submitted under paragraph (A) in a pub-
19 licly accessible format.

20 “(C) CONGRESSIONAL SUBMISSION OF RE-
21 PORT.—The committees described in this sub-
22 paragraph are the following:

23 “(i) The Committee on Oversight and
24 Government Reform of the House of Rep-
25 resentatives.

1 “(ii) The Committees on Homeland
2 Security and Governmental Affairs and the
3 Judiciary of the Senate.

4 “(D) DIRECT SUBMISSION OF REPORTS
5 AND TESTIMONY.—Any report submitted under
6 paragraph (A), any testimony, or any other
7 communication to Congress shall be submitted
8 directly to the committees and the President,
9 without any requirement that any officer or em-
10 ployee outside of the Office of Government In-
11 formation Services, including the Archivist of
12 the United States and the Director of the Of-
13 fice of Management and Budget, review such
14 report, testimony, or other communication.

15 “(5) SUBMISSION OF ADDITIONAL INFORMA-
16 TION.—The Director of the Office of Government
17 Information Services may submit additional informa-
18 tion to Congress and the President that the Director
19 determines to be appropriate.

20 “(6) ANNUAL MEETING REQUIRED.—Not less
21 than once a year, the Office of Government Informa-
22 tion Services shall hold a meeting that is open to the
23 public on the review and reports by the Office and
24 permit interested persons to appear and present oral
25 or written statements at such meeting.”.

1 (d) PUBLIC RESOURCES.—Section 552(a)(6)(A) of
2 title 5, United States Code, is amended—

3 (1) in clause (i), by striking “of such deter-
4 mination and the reasons therefor, and of the right
5 of such person to appeal to the head of the agency
6 any adverse determination; and” and inserting the
7 following: “of—

8 “(I) such determination and the reasons
9 therefor;

10 “(II) the right of such person to seek as-
11 sistance from the agency FOIA Public Liaison;
12 and

13 “(III) the right of such person to appeal to
14 the head of the agency any adverse determina-
15 tion, within a period determined by the agency
16 that is not less than 90 days after the receipt
17 of such adverse determination; and”;

18 (2) in clause (ii), by striking the period and in-
19 serting the following: “and the right of such person
20 to seek dispute resolution services from the agency
21 FOIA Public Liaison or the Office of Government
22 Information Services.”

23 (e) ADDITIONAL DISCLOSURE OF INFORMATION RE-
24 QUIREMENTS.—Section 552(a) of title 5, United States

1 Code, is amended by adding at the end the following new
2 paragraphs:

3 “(8) DISCLOSURE OF INFORMATION FOR IN-
4 CREASED PUBLIC UNDERSTANDING OF THE GOVERN-
5 MENT.—Each agency shall—

6 “(A) review the records of such agency to
7 determine whether the release of the records
8 would be in the public interest because it is
9 likely to contribute significantly to public un-
10 derstanding of the operations or activities of the
11 Government;

12 “(B) for records determined to be in the
13 public interest under subparagraph (A), reason-
14 ably segregate and redact any information ex-
15 empted from disclosure under subsection (b);
16 and

17 “(C) make available in an electronic, pub-
18 licly accessible format, any records identified in
19 subparagraph (A), as modified pursuant to sub-
20 paragraph (B).

21 “(9) INCREASED DISCLOSURE OF INFORMA-
22 TION.—Each agency shall—

23 “(A) make information public to the great-
24 est extent possible through modern technology
25 to—

1 “(i) inform the public of the oper-
2 ations and activities of the Government;
3 and

4 “(ii) ensure timely disclosure of infor-
5 mation; and

6 “(B) establish procedures for identifying
7 categories of records that may be disclosed reg-
8 ularly and additional records of interest to the
9 public that are appropriate for public disclo-
10 sure, and for posting such records in an elec-
11 tronic, publicly accessible format.”.

12 (f) REPORT ON CATEGORIES OF INFORMATION FOR
13 DISCLOSURE.—Not later than one year after the date of
14 the enactment of this Act, and every two years thereafter,
15 the Director of the Office of Information Policy of the De-
16 partment of Justice, after consultation with agencies se-
17 lected by the Director, shall submit to the Committee on
18 Oversight and Government Reform of the House of Rep-
19 resentatives and the Committees on Homeland Security
20 and Governmental Affairs and the Judiciary of the Senate
21 a report that identifies categories of records that would
22 be appropriate for proactive disclosure, and shall make
23 such report available in an electronic, publicly accessible
24 format.

1 (g) AGENCY FOIA REPORT.—Section 552(e) of title
2 5, United States Code, is amended—

3 (1) in paragraph (1)—

4 (A) by inserting “and to the Director of
5 the Office of Government Information Services”
6 after “the Attorney General of the United
7 States”;

8 (B) in subparagraph (N), by striking “;
9 and” and inserting a semicolon;

10 (C) in subparagraph (O), by striking the
11 period and inserting a semicolon; and

12 (D) by adding at the end the following new
13 subparagraphs:

14 “(P) the number of times the agency invoked a
15 law enforcement exclusion under subsection (c);

16 “(Q) the number of times the agency engaged
17 in dispute resolution with the assistance of the Of-
18 fice of Government Information Services or the
19 FOIA Public Liaison;

20 “(R) the number of records that were made
21 available in an electronic, publicly accessible format
22 under subsection (a)(2); and

23 “(S) the number of times the agency assessed
24 a search or duplication fee under subsection

1 (a)(4)(A) and did not comply with a time limit
2 under subsection (a)(6).”;

3 (2) by amending paragraph (3) to read as fol-
4 lows:

5 “(3) ELECTRONIC ACCESSIBILITY OF RE-
6 PORTS.—Each agency shall make each such report
7 available in an electronic, publicly accessible format.
8 In addition, each agency shall make the raw statis-
9 tical data used in its reports available in a timely
10 manner in an electronic, publicly accessible format.
11 Such data shall be—

12 “(A) made available without charge, li-
13 cense, or registration requirement;

14 “(B) capable of being searched and aggre-
15 gated; and

16 “(C) permitted to be downloaded and
17 downloaded in bulk.”;

18 (3) in paragraph (4)—

19 (A) by striking “Committee on Govern-
20 ment Reform and Oversight” and inserting
21 “Committee on Oversight and Government Re-
22 form”;

23 (B) by striking “Governmental Affairs”
24 and inserting “Homeland Security and Govern-
25 mental Affairs”; and

1 (C) by striking “April 1” and inserting
2 “March 1”;

3 (4) in paragraph (5)—

4 (A) by inserting “and the Director of the
5 Office of Government Information Services”
6 after “the Director of the Office of Manage-
7 ment and Budget”; and

8 (B) by striking “by October 1, 1997”; and

9 (5) by amending paragraph (6) to read as fol-
10 lows:

11 “(6) ATTORNEY GENERAL FOIA REPORT.—

12 “(A) IN GENERAL.—The Attorney General
13 of the United States shall submit to Congress
14 and the President an annual report on or before
15 March 1 of each calendar year which shall in-
16 clude for the prior calendar year—

17 “(i) a listing of the number of cases
18 arising under this section;

19 “(ii) each subsection under this sec-
20 tion, each paragraph of the subsection, and
21 any exemption, if applicable, involved in
22 each case, the disposition of such case, and
23 the cost, fees, and penalties assessed under
24 subparagraphs (E), (F), and (G) of sub-
25 section (a)(4); and

1 “(iii) a description of the efforts un-
2 dertaken by the Department of Justice to
3 encourage agency compliance with this sec-
4 tion.

5 “(B) ELECTRONIC AVAILABILITY.—The
6 Attorney General of the United States—

7 “(i) shall make each report described
8 under subparagraph (A) available in an
9 electronic, publicly accessible format; and

10 “(ii) shall make the raw statistical
11 data used in each report available in an
12 electronic, publicly accessible format, which
13 shall be—

14 “(I) made available without
15 charge, license, or registration re-
16 quirement;

17 “(II) capable of being searched
18 and aggregated; and

19 “(III) permitted to be
20 downloaded, including downloaded in
21 bulk.”.

22 (h) SEARCH OR DUPLICATION FEES.—Section
23 552(a)(4)(A)(viii) of title 5, United States Code, is amend-
24 ed by adding at the end the following new sentence: “Any
25 agency that does assess search or duplication fees after

1 failing to comply with a time limit under paragraph (6)
2 shall provide written notice to the requester of the cir-
3 cumstance that justifies the fees. If an agency fails to pro-
4 vide such notice, the agency may not assess search or du-
5 plication fees.”.

6 (i) GOVERNMENT ACCOUNTABILITY OFFICE.—Sub-
7 section (i) of section 552 of title 5, United States Code,
8 is amended to read as follows:

9 “(i) GOVERNMENT ACCOUNTABILITY OFFICE.—The
10 Government Accountability Office shall—

11 “(1) conduct audits of administrative agencies
12 on compliance with and implementation of the re-
13 quirements of this section and issue reports detailing
14 the results of such audits;

15 “(2) catalog the number of exemptions under
16 subsection (b)(3) and agency use of such exemp-
17 tions; and

18 “(3) review and prepare a report on the proc-
19 essing of requests by agencies for information per-
20 taining to an entity that has received assistance
21 under title I of the Emergency Economic Stabiliza-
22 tion Act of 2008 (12 U.S.C. 5211 et seq.) during
23 any period in which the Government owns or owned
24 more than 50 percent of the stock of such entity.”.

1 (j) CHIEF FOIA OFFICER RESPONSIBILITIES; COUN-
2 CIL; REVIEW.—Section 552 of title 5, United States Code,
3 is amended—

4 (1) by striking subsections (j) and (k); and

5 (2) by inserting after subsection (i), the fol-
6 lowing new subsections:

7 “(j) CHIEF FOIA OFFICER.—

8 “(1) DESIGNATION.—Each agency shall des-
9 ignate a Chief FOIA Officer who shall be a senior
10 official of such agency (at the Assistant Secretary or
11 equivalent level).

12 “(2) DUTIES.—The Chief FOIA Officer of each
13 agency shall, subject to the authority of the head of
14 the agency—

15 “(A) have agency-wide responsibility for ef-
16 ficient and appropriate compliance with this
17 section;

18 “(B) monitor implementation of this sec-
19 tion throughout the agency and keep the head
20 of the agency, the chief legal officer of the
21 agency, and the Attorney General appropriately
22 informed of the agency’s performance in imple-
23 menting this section;

24 “(C) recommend to the head of the agency
25 such adjustments to agency practices, policies,

1 personnel, and funding as may be necessary to
2 improve its implementation of this section;

3 “(D) review and report to the Attorney
4 General, through the head of the agency, at
5 such times and in such formats as the Attorney
6 General may direct, on the agency’s perform-
7 ance in implementing this section;

8 “(E) facilitate public understanding of the
9 purposes of the statutory exemptions of this
10 section by including concise descriptions of the
11 exemptions in both the agency’s handbook
12 issued under subsection (g), and the agency’s
13 annual report on this section, and by providing
14 an overview, where appropriate, of certain gen-
15 eral categories of agency records to which those
16 exemptions apply;

17 “(F) serve as the primary agency liaison
18 with the Office of Government Information
19 Services and the Office of Information Policy;
20 and

21 “(G) designate one or more FOIA Public
22 Liaisons.

23 “(3) COMPLIANCE REVIEW REQUIRED.—The
24 Chief FOIA Officer of each agency shall—

1 “(A) review, not less than annually, all as-
2 pects of the agency’s administration of this sec-
3 tion to ensure compliance with the requirements
4 of this section, including—

5 “(i) agency regulations;

6 “(ii) disclosure of records required
7 under paragraphs (2), (8), and (9) of sub-
8 section (a);

9 “(iii) assessment of fees and deter-
10 mination of eligibility for fee waivers;

11 “(iv) the timely processing of requests
12 for information under this section;

13 “(v) the use of exemptions under sub-
14 section (b); and

15 “(vi) dispute resolution services with
16 the assistance of the Office of Government
17 Information Services or the FOIA Public
18 Liaison; and

19 “(B) make recommendations as necessary
20 to improve agency practices and compliance
21 with this section.

22 “(k) CHIEF FOIA OFFICERS COUNCIL.—

23 “(1) ESTABLISHMENT.—There is established in
24 the executive branch the Chief FOIA Officers Coun-
25 cil (in this subsection, referred to as the ‘Council’).

1 “(2) MEMBERS.—The Council shall consist of
2 the following members:

3 “(A) The Deputy Director for Manage-
4 ment of the Office of Management and Budget.

5 “(B) The Director of the Office of Infor-
6 mation Policy at the Department of Justice.

7 “(C) The Director of the Office of Govern-
8 ment Information Services at the National Ar-
9 chives and Records Administration.

10 “(D) The Chief FOIA Officer of each
11 agency.

12 “(E) Any other officer or employee of the
13 United States as designated by the Co-Chairs.

14 “(3) CO-CHAIRS.—The Director of the Office of
15 Information Policy at the Department of Justice and
16 the Director of the Office of Government Informa-
17 tion Services at the National Archives and Records
18 Administration shall be the Co-Chairs of the Coun-
19 cil.

20 “(4) SUPPORT SERVICES.—The Administrator
21 of General Services shall provide administrative and
22 other support for the Council.

23 “(5) CONSULTATION.—In performing its duties,
24 the Council shall consult regularly with members of
25 the public who make requests under this section.

1 “(6) DUTIES.—The duties of the Council in-
2 clude the following:

3 “(A) Develop recommendations for increas-
4 ing compliance and efficiency under this sec-
5 tion.

6 “(B) Disseminate information about agen-
7 cy experiences, ideas, best practices, and inno-
8 vative approaches related to this section.

9 “(C) Identify, develop, and coordinate ini-
10 tiatives to increase transparency and compli-
11 ance with this section.

12 “(D) Promote the development and use of
13 common performance measures for agency com-
14 pliance with this section.

15 “(7) MEETINGS.—

16 “(A) REGULAR MEETINGS.—The Council
17 shall meet regularly and such meetings shall be
18 open to the public unless the Council deter-
19 mines to close the meeting for reasons of na-
20 tional security or to discuss information exempt
21 under subsection (b).

22 “(B) ANNUAL MEETINGS.—Not less than
23 once a year, the Council shall hold a meeting
24 that shall be open to the public and permit in-

1 terested persons to appear and present oral and
2 written statements to the Council.

3 “(C) NOTICE.—Not later than 10 business
4 days before a meeting of the Council, notice of
5 such meeting shall be published in the Federal
6 Register.

7 “(D) PUBLIC AVAILABILITY OF COUNCIL
8 RECORDS.—Except as provided in subsection
9 (b), the records, reports, transcripts, minutes,
10 appendixes, working papers, drafts, studies,
11 agenda, or other documents that were made
12 available to or prepared for or by the Council
13 shall be made publicly available.

14 “(E) MINUTES.—Detailed minutes of each
15 meeting of the Council shall be kept and shall
16 contain a record of the persons present, a com-
17 plete and accurate description of matters dis-
18 cussed and conclusions reached, and copies of
19 all reports received, issued, or approved by the
20 Council.”.

21 (k) REGULATIONS.—

22 (1) REVISION OF REGULATIONS.—Not later
23 than 180 days after the date of the enactment of
24 this Act, the head of each agency shall review the
25 regulations of such agency and shall issue regula-

1 tions on procedures for the disclosure of records
2 under section 552 of title 5, United States Code, in
3 accordance with the amendments made by this sec-
4 tion. The regulations of each agency shall include—

5 (A) procedures for engaging in dispute res-
6 olution; and

7 (B) procedures for engaging with the Of-
8 fice of Government Information Services.

9 (2) OFFICE OF GOVERNMENT INFORMATION
10 SERVICES REPORT.—Not later than 270 days after
11 the date of the enactment of this Act, the Office of
12 Government Information Services shall submit to
13 Congress a report on agency compliance with the re-
14 quirements of this subsection.

15 (3) REPORT ON NONCOMPLIANCE.—The head
16 of any agency that does not meet the requirements
17 of paragraph (1) shall submit to Congress a report
18 on the reason for noncompliance not later than 270
19 days after the date of the enactment of this Act.

20 (4) INSPECTOR GENERAL REVIEW FOR NON-
21 COMPLIANCE.—Any agency that fails to comply with
22 the requirements of this subsection shall be reviewed
23 by the Office of Inspector General of such agency
24 for compliance with section 552 of title 5, United
25 States Code.

1 (5) AGENCY DEFINED.—In this section, the
2 term “agency” has the meaning given such term in
3 section 552(f) of title 5, United States Code.

4 **SEC. 3. PILOT PROGRAM.**

5 (a) ESTABLISHMENT.—The Director of the Office of
6 Management and Budget shall establish a pilot program
7 for 3 years to review the benefits of a centralized portal
8 to process requests and release information under section
9 552 of title 5, United States Code (commonly known as
10 the Freedom of Information Act).

11 (b) PLAN REQUIRED.—Not later than 90 days after
12 the date of the enactment of this Act, the Director of the
13 Office of Management and Budget shall establish a plan
14 to evaluate the functionality and benefits of a centralized
15 portal to receive and track requests made under section
16 552 of title 5, United States Code, by selecting no less
17 than 3 agencies that have not previously participated in
18 a centralized portal, including at least one of the following:

19 (1) An agency that receives more than 30,000
20 requests annually for information under section 552
21 of title 5, United States Code.

22 (2) An agency that receives between 15,000 and
23 30,000 requests annually for information under such
24 section.

1 (3) An agency that receives 15,000 or fewer re-
2 quests annually for information under such section.

3 (c) AGENCY USE OF WEB SITE.—Each agency se-
4 lected under subsection (b) shall use the centralized portal
5 to—

6 (1) receive requests under section 552 of title 5,
7 United States Code;

8 (2) consult with and refer requests to partici-
9 pating agencies;

10 (3) if practicable, process requests received
11 under such section;

12 (4) track the status of requests submitted
13 under such section; and

14 (5) make records released available publicly
15 through the centralized portal.

16 (d) REVIEW REQUIRED.—The Director of the Office
17 of Management and Budget shall, in consultation with the
18 Attorney General, the Office of Government Information
19 Services, and the head of each agency participating in the
20 pilot program, review the benefits of a centralized portal,
21 including—

22 (1) any cost saving, resource saving, or effi-
23 ciency gained;

1 (2) any change in the amount of requests re-
2 ceived under section 552 of title 5, United States
3 Code;

4 (3) any increase in transparency and accessi-
5 bility to Government information; and

6 (4) any changes in the ability to access and
7 compile information needed for agency annual re-
8 ports required under section 552 of title 5, United
9 States Code.

10 (e) REPORT REQUIRED.—Not later than 3 months
11 after the completion of the pilot program, the head of each
12 agency participating in the program—

13 (1) shall submit to Congress a report on the
14 impact of the pilot program on agency processes
15 under section 552 of title 5, United States Code,
16 whether the agency will continue to participate in
17 the centralized portal, and any recommendations the
18 head of the agency considers appropriate; and

19 (2) shall make such report available in an elec-
20 tronic, publicly accessible format.

21 (f) DEFINITIONS.—In this section:

22 (1) AGENCY.—The term “agency” has the
23 meaning given such term in section 552(f) of title 5,
24 United States Code.

1 (2) CENTRALIZED PORTAL.—The term “cen-
2 tralized portal” means an electronic online portal
3 that allows a requester to submit a request under
4 section 552 of title 5, United States Code, to any
5 participating agency, to track the status of a re-
6 quest, and to obtain a response to a request made
7 through the portal.

8 **SEC. 4. INSPECTOR GENERAL REVIEW; ADVERSE ACTIONS.**

9 (a) INSPECTOR GENERAL REVIEW.—

10 (1) IN GENERAL.—The Inspector General of
11 each agency shall—

12 (A) periodically review compliance with the
13 requirements of section 552 of title 5, United
14 States Code, including the timely processing of
15 requests, assessment of fees and fee waivers,
16 and the use of exemptions under subsection (b)
17 of such section; and

18 (B) make recommendations the Inspector
19 General determines to be necessary to the head
20 of the agency, including recommendations for
21 disciplinary action.

22 (2) AGENCY DEFINED.—In this subsection, the
23 term “agency” has the meaning given that term
24 under section 552(f) of title 5, United States Code.

1 (b) ADVERSE ACTIONS.—The withholding of infor-
2 mation in a manner inconsistent with the requirements of
3 section 552 of title 5, United States Code (including any
4 rules, regulations, or other implementing guidelines), as
5 determined by the appropriate supervisor, shall be a basis
6 for disciplinary action in accordance with subchapter I, II,
7 or V of chapter 75 of such title, as the case may be.

8 **SEC. 5. OPEN GOVERNMENT ADVISORY COMMITTEE.**

9 (a) ESTABLISHMENT.—The Archivist of the United
10 States shall establish an Open Government Advisory Com-
11 mittee (in this section, referred to as the “Committee”),
12 an independent advisory committee to make recommenda-
13 tions for improving Government transparency.

14 (b) MEMBERSHIP; CHAIR; MEETINGS; QUALIFICA-
15 TIONS OF MEMBERS.—The Committee shall be composed
16 of at least nine members appointed by the Archivist, one
17 of whom shall be designated the Chair by the members,
18 and shall meet at such times and places as may be des-
19 ignated by the Chair. Each member of the Committee
20 shall be qualified by education, training, or experience to
21 make recommendations on improving Government trans-
22 parency. The membership of the Committee shall in-
23 clude—

1 (1) representatives of the Department of Jus-
2 tice and the Office of Government Information Serv-
3 ices;

4 (2) at least two members with experience re-
5 questing information under section 552 of title 5,
6 United States Code (including one member of the
7 news media); and

8 (3) at least one member with expertise in infor-
9 mation technology.

10 (c) COMPENSATION.—While serving on the business
11 of the Committee, and while so serving away from home
12 and the member’s regular place of business, a member
13 may be allowed travel expenses, as authorized by the Ar-
14 chivist.

15 (d) CONFLICT OF INTEREST DISCLOSURE.—The
16 members of the Committee shall be considered to be spe-
17 cial Government employees (as such term is defined in sec-
18 tion 202 of title 18, United States Code).

19 (e) STAFF.—The Archivist may appoint and fix the
20 compensation of such personnel as may be necessary to
21 enable the Committee to carry out its functions. Any per-
22 sonnel of the Committee who are employees shall be em-
23 ployees under section 2105 of title 5, United States Code.
24 Any Federal Government employee may be detailed to the
25 Committee without reimbursement from the Committee,

1 and such detailee shall retain the rights, status, and privi-
2 leges of regular employment of such employee without
3 interruption.

4 (f) APPLICABILITY OF THE FEDERAL ADVISORY
5 COMMITTEE ACT.—The Federal Advisory Committee Act
6 (5 U.S.C. App.) shall apply to the Committee and any sub-
7 committee or subgroup thereof.

8 (g) DISCLOSURE OF INFORMATION.—The Archivist
9 shall make publicly available the following information:

10 (1) The charter of the Committee.

11 (2) A description of the process used to estab-
12 lish and appoint the members of the Committee, in-
13 cluding the following:

14 (A) The process for identifying prospective
15 members.

16 (B) The process of selecting members for
17 balance of viewpoints or expertise.

18 (C) The reason each member was ap-
19 pointed to the Committee.

20 (3) A list of all current members, including, for
21 each member, the name of any person or entity that
22 nominated the member.

23 (4) A summary of the process used by the Com-
24 mittee for making decisions.

1 (5) A transcript or audio or visual recording of
2 each meeting of the Committee.

3 (6) Any written determination by the President
4 or the Archivist, pursuant to section 10(d) of the
5 Federal Advisory Committee Act (5 U.S.C. App.), to
6 close a meeting or any portion of a meeting and the
7 reasons for such determination.

8 (7) Notices of future meetings of the Com-
9 mittee.

10 (h) MANNER OF DISCLOSURE.—

11 (1) WEBSITE PUBLICATION.—Except as pro-
12 vided in paragraph (2), the Archivist shall make the
13 information required to be disclosed under this sec-
14 tion available electronically on the official public
15 website of the National Archives and Records Ad-
16 ministration at least 15 calendar days before each
17 meeting of the Committee. If the Archivist deter-
18 mines that such timing is not practicable for any re-
19 quired information, the Archivist shall make the in-
20 formation available as soon as practicable but no
21 later than 48 hours before the next meeting of the
22 Committee.

23 (2) AVAILABILITY OF COMMITTEE MEETING.—
24 The Archivist shall make available electronically, on
25 the official public website of the National Archives

1 and Records Administration, a transcript or audio or
2 video recording of each Committee meeting not later
3 than 30 calendar days after such meeting.

4 **SEC. 6. NO ADDITIONAL FUNDS AUTHORIZED.**

5 No additional funds are authorized to carry out the
6 requirements of this Act and the amendments made by
7 this Act. Such requirements shall be carried out using
8 amounts otherwise authorized or appropriated.

Passed the House of Representatives February 25,
2014.

Attest:

KAREN L. HAAS,

Clerk.