

2013 Chief FOIA Officer Report

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Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? *Answer:* The NIGC did not hold an agency FOIA conference, but participated in the Department of Interior's DOI Learn training program for records management. As part of this training, all staff received training on the identification and scope of records responsive to FOIA requests and the legal requirements for preserving those records once a relevant FOIA request is received. The NIGC has two and a half full-time FOIA professionals that perform all aspects of the FOIA process.

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

Answer: Yes. Two of the NIGC's three FOIA employees attended FOIA training seminars at the Office of Information Policy (OIP) at the Department of Justice during Fiscal Year (FY) 2012. Specifically, both professionals attended the following seminar: An Overview of the Freedom of Information Act: Procedural Requirements.

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

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

Answer: Yes. The National Indian Gaming Commission (NIGC) made two discretionary releases in FY 2012 for information where some of the responsive information would have been withheld under FOIA exemption (b)(5). The FOIA Office determined that the information would pose no harm to the agency if released.

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

Answer: FOIA exemption (b)(5).

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

Answer: Most of the information released by the agency as a matter of discretion would normally fall under Exemption 5. In certain cases, the FOIA Officer will review internal emails, handwritten notes, and draft documents and determine that a discretionary release should be considered. This most typically occurs in the context of draft documents. Draft documents by their nature are prone to contain information that is subject to the deliberative process privilege. In its first discretionary release, the NIGC reviewed drafts of a final agency decision and made the determination that no harm would flow from the release of the information in the drafts. As such, the information was disclosed. In its second discretionary release, the agency reviewed internal handwritten notes responsive to a request and, likewise, determined the information could be released. In this way, the agency strives to increase the amount of information it discloses through its discretionary releases.

Outside of the context of FOIA requests, the NIGC goes to great lengths to proactively release information to the public. The NIGC published on its website all discussion drafts of potential changes to its regulations, proposed rules, comments to discussion drafts and proposed rules, and transcripts of every consultation it participated in as part of its recent regulatory review. Copies of final rules are also published on the website. The agency also publishes its decisions with regard to gaming ordinances; management contracts; and classification of certain games. Additionally, the agency's reading room contains redacted versions of approved management contracts, as well as legal opinions regarding Indian lands determinations and contracts.

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

Answer: It should be noted that the NIGC has statutory restrictions outside of FOIA that are placed upon it in terms of information dissemination. The NIGC is charged by Congress with administering and implementing the Indian Gaming Regulatory Act (IGRA). IGRA mandates that all information coming within the purview of FOIA exemptions (b)(4) and (b)(7) must be kept confidential. 25 U.S.C. § 2716(a). The only exception to this rule is when that information indicates a violation of Federal, State, or Tribal law, in which case it must be provided to the appropriate law enforcement officials. 25 U.S.C. § 2716(b). As part of its statutory responsibilities, the NIGC receives confidential financial information as well as investigatory information. Both of those types of information are exempt under the above listed FOIA exemptions. Given these

restrictions regarding disclosure, the NIGC has less discretion to release this information to the public.

Nevertheless, when processing its requests, the agency makes every effort to release nonexempt information by performing a line-by-line review of all responsive materials and consulting with submitters to ascertain what, if any, information can be publicly disclosed. This is especially relevant with respect to its use of Exemptions 4 and 5 of the FOIA.

As part of its Exemption 4 process, the agency performs a comparative analysis between requested documents and other similar documents in its possession to ensure that all releasable material is disclosed. For example, as part of its statutory responsibilities, the NIGC is required to review tribal management contracts, which by their nature contain commercial and financial information. When the NIGC receives a request for such a document, it will review past management contracts to ensure that boilerplate and other non-negotiated, non-confidential information is not unnecessarily withheld. Not only this, but it also analyzes past submitter justifications when a submitter requests that certain information be withheld. This review process provides the agency with knowledge as to how often certain contractual terms appear in certain agreements and how those terms are viewed within the industry as a whole rather than by the individual submitter. In this way, the agency can ascertain what information is truly confidential. As a result, the amount of information publicly released is increased dramatically. As a reference, in FY 2012, the FOIA Office processed 42 requests. Exemption (b)(4) was applied in approximately 9.5% of those processed requests as compared to 15% of the processed requests in FY 2011.

Similarly, the agency closely scrutinizes its application of exemption (b)(5). Where the material at issue can be reasonably segregated to allow for disclosure of non-exempt information, the agency routinely releases the information. In cases of drafts and working papers, agency staff performs a line-by-line review of each draft and compares it with the final document associated with those drafts, if one exists. Information contained in both the final and draft versions is released and only material that truly conforms with the interests protected by exemption (b)(5) is redacted. In FY 2012, exemption (b)(5) was applied in 7% of the processed requests as compared to 6% of the processed requests in FY 2011.

In sum, the NIGC endeavors to release as much information as it can in every request it receives. Particularly, the agency carefully scrutinizes its use of Exemptions 4 and 5. All redactions are carefully considered.

Some other NIGC initiatives include the placement of President Obama's January 21, 2009 FOIA Memorandum, and Attorney General Holder's March 19, 2009 FOIA Memorandum in its network drive for access by all agency personnel. Moreover, as mentioned in the question above, the NIGC posts several kinds of documents to its website that would not otherwise be available to the public except through a FOIA request. Specifically, in FY 2012, the agency engaged in a comprehensive regulatory

review and determined that the process should be as open to the public as possible. This process generated a litany of information consisting of all proposed rules, discussion drafts, comments, and consultation transcripts, all of which are now posted on the agency website and directly available to the public. As a result of the regulatory review and its other routine postings of NIGC decisions and NIGC Office of General Counsel legal opinions, approximately 340 documents were made available to the public in FY 2012. To this end, the agency hopes to significantly decrease the need for the public to request information pursuant to FOIA.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests."

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

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

Answer: Yes. The NIGC's Information Technology (IT) Office supports our mission of openness and has significantly contributed to an effective FOIA processing system. IT works with FOIA staff to ensure that documents subject to mandatory and discretionary release are posted to the agency website after they have been processed. They also regularly communicate with the FOIA professionals to guarantee that all information displayed in the FOIA reading room is up to date and portrayed accurately. Additionally, IT provides assistance to FOIA staff by independently performing searches for responsive documents within our e-mail system and other tasks as needed. Of significance, this year IT has developed and assisted in the implementation of a new FOIA database that assists FOIA personnel in processing and tracking FOIA requests. Thus, the IT department provides sufficient support to the FOIA Office.

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

Answer: Yes. The FOIA Office, IT personnel, and Open Government personnel are always available to work with the agency's FOIA professionals and communicate with them regularly to have information provided for the agency's website as needed.

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

Answer: Yes. Since the NIGC's 2011 reorganization, the agency holds weekly meetings to discuss the agency's needs and concerns regarding the FOIA process. These meetings regularly assess the agency's backlogged requests, compliance with FOIA's mandatory disclosure requirements as well as the e-FOIA amendments. Meetings also include the evaluation of agency procedures, the implementation of revised procedures where needed, and obtaining the requisite assistance from legal staff. In 2012, the NIGC re-assessed its staffing needs and hired a FOIA attorney to handle the agency's FOIA requests in a more streamlined manner and to provide a legal sufficiency review of proposed releases so that requests could be closed more expediently.

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.

Answer: When the agency receives a new request, a tracking number is assigned to it and the pertinent information is entered into the agency's electronic database. The request letter is then scanned and saved into an electronic format. If the requester seeks to have the request expedited, the request is immediately forwarded to the FOIA attorney for review to determine whether the requester qualifies for such treatment. If not, an e-mail search request is then sent to all offices where records might reasonably be located. Attention is focused on working with agency personnel to complete search requests within a timely manner and every search request contains a deadline by which staff must respond. Once search requests are returned with responsive documents, an initial review of the responsive documents is performed to determine how long it will take to process the request. If processing will exceed the 20 working-day time period from the date the letter was received, an acknowledgement letter is sent to the requester explaining what needs to be done to complete processing of the request, along with an estimate of the additional time needed. The requester may modify the request at this time to shorten the processing time.

The NIGC has implemented a multi-tracking system for processing FOIA requests pursuant to 5 U.S.C. § 552(a)(6)(D) and 25 C.F.R. § 517.6(b). Requests within each track are processed on a "first-in, first-out" basis. Track One is for those requests that seek and receive expedited processing. Track Two is for those requests that do not require lengthy consultations with other entities or do not involve voluminous records. Track Three is for those requests that involve voluminous records or records requiring lengthy or numerous intra-agency consultations, such as records with confidential commercial information. *See* 25 C.F.R. § 517.5. After sending the acknowledgment letter, FOIA staff will review the material for information that is exempted from release under FOIA. After this determination is made, the material is forwarded to the FOIA attorney for a legal sufficiency review. The attorney reviews all proposed redactions to ensure they are supported by law and makes a determination as to whether any information qualifies for discretionary release. In cases where no information qualifies for a submitter's review,

the information will then be redacted and copied for release to the requester. Releases of redacted documents are scanned and saved in an electronic format for easy retrieval for any future requests and possible posting on the NIGC web page.

As a result of the agency's mission, the majority of documents requested contain confidential financial and proprietary information. Submitter notices are required under the FOIA, NIGC regulations, and executive order for confidential commercial or financial information. Prior to sending out submitter notices, documents are reviewed for information that may qualify for withholding. After identifying that a document may contain confidential commercial or financial information, copies are sent to the submitters explaining the need for their review and identifying whether the documents are considered "required" or "voluntary" submissions under relevant case law. The submitter notice provides the requester with a reasonable amount of time to review the documents and instructs them to provide the agency with any objection they may have to release of the information. If the submitter believes information needs to be withheld, or the documents need to be withheld in full, they are required to provide written justification. Submitter response letters are reviewed to see if any information has been requested to be withheld and whether that information qualifies for withholding under any FOIA exemption. However, the FOIA Office continues to work with submitters to accelerate the time period needed to complete the submitter notice requirement.

To that end, the FOIA Office works telephonically with submitters to discuss questionable withholdings to reduce the additional time needed for review. If there are any discrepancies between the views of the agency and the submitter, a final determination letter is sent to the submitter informing them of the final agency action and allowing them an opportunity to seek judicial relief prior to the NIGC release of any documents. If a submitter fails to respond to the agency's request for review, NIGC regulations permit the agency to treat the requester as having no objection to its release. Once the submitter notices are completed, a final release to the requester is made.

As a general matter, the FOIA Office routinely reviews the FOIA tracking log to ensure that cases within each track are in a timely manner.

As mentioned above, the NIGC takes seriously its responsibility to timely respond to FOIA requests and to provide as much information to the public as it is permitted to under law. In accordance with this, the NIGC's Office of General Counsel meets weekly with FOIA personnel to discuss ideas on improving the agency's FOIA system. This has resulted in the recent additions of electronic software to implement redactions, the creation of a FOIA electronic filing system, the creation of an electronic FOIA exclusive database, and new internal procedures for processing requests. It has also led to the recent addition of a FOIA Attorney who is devoted primarily to FOIA-specific issues and to uniformly reviewing all FOIA-related matters. All of these improvements have worked to eliminate inconsistencies in review, and provide for a quicker, more efficient method of responding to requests.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2012 to March 2013). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

Answer: There were approximately 340 new documents added to the website in FY 2012. Particularly, the NIGC posted several documents related to its regulatory review. These documents include all discussion drafts of potential changes to its regulations, proposed rules, comments in response to discussion drafts and proposed rules, final rules, and transcripts of every consultation in which the NIGC participated. The agency also published its decisions on gaming ordinances, management contracts, and classification of certain games. Additionally, the agency's reading room contains redacted versions of approved management contracts, as well as legal opinions regarding Indian lands determinations and contracts submitted for the Office of General Counsel's review.

It should also be noted that the NIGC also posts information on its website in conformance with the e-FOIA amendments. Whenever the agency receives two requests for the same document and reasonably anticipates a third, it works with its IT staff to ensure that the document is placed in its online reading room. For example, this year an NIGC letter to San Diego County regarding the potential of certain debt collection practices to constitute management of an Indian gaming operation was of particular interest to several requesters. When the second request was received, a meeting was held to determine whether the agency believed a third request would be made. After considering the implications of the specific letter requested, it was determined that a third request was likely and the document was posted to the agency's reading room.

2. Beyond posting new material, is your agency taking steps to make the 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, providing explanatory material, etc.?

Answer: Yes. The NIGC has endeavored to improve the search capabilities of its website and strives to make information readily available, particularly to Tribes involved in Indian gaming.

3. If so, please provide examples of such improvements.

Answer: The NIGC has responded to the need and demand for agency documents by enhancing the search capability of all PDF documents and improving the website's search functions. The agency has made it possible for individuals visiting the website to more efficiently locate specific text within the posted documents. Currently, posted documents are formatted to recognize text. This allows users to perform searches within an identified document for specific terms. This search capability significantly reduces the amount of time a user must spend looking for desired information.

It should also be noted that the NIGC posted all discussion drafts, proposed rules, comments and meeting transcripts from its recent regulatory review specifically to assist the community of individuals most likely to visit its website. Although the proposed rules are published in the Federal Register, the other posted materials would not otherwise be available except through FOIA requests. This information was posted to keep tribes informed of the NIGC's proposed regulatory changes and the input provided on those changes by tribes and others.

Moreover, the recent addition of a FOIA attorney has made review of agency requests more uniform. This has resulted in faster identification of similar or duplicative requests and permits routinely requested documents to be more quickly posted to the website.

The NIGC also maintains an information e-mail box for individuals seeking specific kinds of information and also serves as a suggestion box for those wish to provide suggestions on how to improve the website's content and lay out. As suggestions or requests are reviewed, common requests or suggestions are considered for possible implementation.

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

Answer: Please see the response to Answer 3 of this Section.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

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

Answer: Yes. The FOIA Office does receive requests electronically, through its info@nigc.gov e-mail address, which is located on the NIGC website. Requests are also submitted by e-mailing agency personnel or the FOIA Office directly. When FOIA requests are directed to agency personnel, those requests are forwarded to the FOIA Office for processing.

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

Answer: Yes.

Online tracking of FOIA requests:

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

Answer: No. At this time, the NIGC does not have this feature as part of its FOIA process. The agency is currently considering its options for the best way to provide accurate, detailed and request-specific information to its requesters through an online medium.

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 view.” List the specific types of information that are available through the agency tracking system.

Answer: Not applicable. Please see the response to Answer 3 of this Section.

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

Answer: Not applicable. Please see the response to Answer 3 of this Section.

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

Answer: Yes. The agency is currently considering its options for the best way to provide accurate, detailed and request-specific information to its requesters through an online medium.

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?

Answer: No. The current procedures in place are adequate for the low volume of requests received by the FOIA Office. For example, only 56 requests were received in FY 2012.

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

Answer: Not applicable. Please see Answer 7 of this Section.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.*

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?

Answer: Yes. The NIGC has implemented the use of a separate track for "simple" requests that do not require lengthy consultations with other entities or for requests that do not involve voluminous records.

b. If so, for your agency overall, for FY 2012, was the average number of days to process simple requests 20 working days or fewer?

Answer: No. The average number of days to process simple requests in FY 2012 was 54 working days.

c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests 20 working days or fewer?

Answer: This is not applicable. Please see Answer (1)b.

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 2011 as compared to Fiscal Year 2010. 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 2010 and Fiscal Year 2011 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?

Answer: No. The number of backlogged requests increased slightly, by 15, at the close of FY 2012, as compared to 14 requests backlogged in FY 2011.

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

Answer: The NIGC did not have any backlogged administrative appeals in FY 2012.

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

Answer: No. The NIGC had a backlog of 14 requests from FY 2011 that were carried forward to FY 2012. In total, the NIGC closed 8 of those backlogged requests in FY 2012. Of those 8 closed requests, 4 were among the ten oldest pending requests at the end of FY2011.

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?

Answer: The NIGC did not have any administrative appeals pending at the end of Fiscal Year 2011.

3. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions and 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?

Answer: No. During FY 2012, 56 FOIA requests were received. In FY 2011, 76 requests were received. Therefore, the number of requests decreased marginally.

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

Answer: Yes. During the time period in question the agency underwent a re-organization whereby the agency official responsible for responding to FOIA requests left the agency. The exact effect cannot be quantified, but the transition and re-assignment of responsibilities has resulted in a net slow-down in the rate in which requests were being processed and served to prevent reduction in the agency's backlog.

c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Answer: Yes. The increase in the backlog of pending requests is the result of the complexity of many of the requests received, along with the often time-consuming process of submitting documents to the submitters for their review and input for purposes of determining the exempt commercial and financial information under FOIA exemption (b)(4). Additionally, many of the requests received require the agency to consult with various components with the Department of Interior and other agencies. This also results in decreased efficiency as awaiting responses from other agencies is often time-consuming.

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

Answer: None.

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?

Answer: This question is not applicable. The NIGC did not have any backlogged administrative appeals in FY 2012.

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

Answer: This question is not applicable. Please see Answer a.

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

Answer: This question is not applicable. Please see Answer a.

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

Answer: This question is not applicable. Please see Answer 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.

Answer: We routinely review the FOIA tracking log to ensure cases within each track are progressing in accordance with FOIA and the NIGC FOIA regulations. Periodic updates of the current backlog are provided for review and discussion to facilitate the processing of the backlogged requests. During fiscal year 2012, the NIGC provided two interim responses for backlogged requests.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of 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 FY 2012?

Answer: The NIGC did not invoke any statutory exclusions during FY 2012.

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

Answer: Not applicable.

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.

In keeping with President Obama's FOIA Memorandum of January 21, 2009, and Attorney General Holder's FOIA Memorandum of March 19, 2009, the NIGC has integrated a new process to proactively disclose more information. Beginning in FY

2012, when the Commission or Chairwoman issues a decision or the Office of General Counsel issues a legal opinion, the NIGC FOIA Office immediately starts the submitter notice process to get the document posted to the website as fast as possible. This process enables the NIGC to get the document reviewed, redacted, and posted to the agency website in a timely fashion. This proactive action has significantly minimized the number of requests the agency typically receives regarding these subjects.