

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 653
OFFERED BY MR. MEADOWS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “FOIA Oversight and
3 Implementation Act of 2015” 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:

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

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

6 (iv) in the matter following subpara-
7 graph (F) (as added by clause (ii) of this
8 subparagraph)—

9 (I) by striking “subparagraph
10 (D)” and inserting “subparagraphs
11 (D) and (E)”; and

12 (II) by striking “subparagraph
13 (E)” and inserting “subparagraph
14 (F)”; and

15 (B) in paragraph (7)—

16 (i) in subparagraph (A), by striking
17 “that will take longer than ten days to
18 process”; and

19 (ii) in subparagraph (B), by inserting
20 “automated” after “provides”;

21 (2) in subsection (g), by striking “make publicly
22 available upon request” and inserting “make avail-
23 able in an electronic, publicly accessible format”;
24 and

1 (3) by adding at the end the following new sub-
2 section:

3 “(m) ELECTRONIC SUBMISSION OF REQUESTS.—

4 “(1) CONSOLIDATED ONLINE REQUEST POR-
5 TAL.—The Director of the Office of Management
6 and Budget, in consultation with the Attorney Gen-
7 eral, shall ensure the operation of a consolidated on-
8 line request portal that allows a member of the pub-
9 lic to submit a request for records under subsection
10 (a) to any agency from a single website. The portal
11 may include any additional tools the Director of the
12 Office of Management and Budget finds will improve
13 the implementation of this section.

14 “(2) RULE OF CONSTRUCTION.—This sub-
15 section shall not be construed to alter the power of
16 any other agency to create or maintain an inde-
17 pendent online portal for the submission of a request
18 for records under this section. The Director of the
19 Office of Management and Budget shall establish
20 standards for interoperability between the portal re-
21 quired under paragraph (1) and other request proc-
22 essing software used by agencies subject to this sec-
23 tion.

24 “(3) EMAIL REQUEST REQUIRED.—Each agen-
25 cy shall accept requests for records under subsection

1 (a) through an email address and shall publish such
2 email address on the website of the agency.”.

3 (b) PRESUMPTION OF OPENNESS.—Section 552(b) of
4 title 5, United States Code, is amended—

5 (1) in paragraph (5), by inserting after “with
6 the agency” the following: “, excluding—

7 “(A) records that embody the working law,
8 effective policy, or the final decision of the
9 agency; or

10 “(B) records or information created 25
11 years or more before the date on which a re-
12 quest is made under subsection (a)(3);” and

13 (2) in the matter following paragraph (9), by
14 inserting before “Any reasonably segregable portion”
15 the following: “An agency may not withhold infor-
16 mation under this subsection unless such agency
17 reasonably foresees that disclosure would cause spe-
18 cific identifiable harm to an interest protected by an
19 exemption, or if disclosure is prohibited by law.”.

20 (c) THE OFFICE OF GOVERNMENT INFORMATION
21 SERVICES.—Section 552 of title 5, United States Code,
22 is amended—

23 (1) in subsection (a)(4)(A)(i), by striking “the
24 Director of the Office of Management and Budget”
25 and inserting “the Director of the Office of Manage-

1 ment and Budget, in consultation with the Director
2 of the Office of Government Information Services,”;
3 and

4 (2) by amending subsection (h) to read as fol-
5 lows:

6 “(h) THE OFFICE OF GOVERNMENT INFORMATION
7 SERVICES.—

8 “(1) ESTABLISHMENT.—There is established
9 the Office of Government Information Services with-
10 in the National Archives and Records Administra-
11 tion. The head of the Office is the Director of the
12 Office of Government Information Services.

13 “(2) REVIEW OF FOIA POLICY, PROCEDURE,
14 AND COMPLIANCE.—The Office of Government In-
15 formation Services shall—

16 “(A) review policies and procedures of
17 agencies under this section;

18 “(B) review compliance with this section
19 by agencies;

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

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

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

1 “(iii) the use of any exemption under
2 subsection (b); and

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

5 “(3) MEDIATION SERVICES.—The Office of
6 Government Information Services shall offer medi-
7 ation services to resolve disputes between persons
8 making requests under this section and agencies as
9 a non-exclusive alternative to litigation and may
10 issue advisory opinions at the discretion of the Office
11 or upon request of any party to such mediation serv-
12 ices.

13 “(4) SUBMISSION OF REPORT.—

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

24 “(B) ELECTRONIC AVAILABILITY OF RE-
25 PORTS.—The Office shall make available any

1 report submitted under paragraph (A) in a pub-
2 licly accessible format.

3 “(C) CONGRESSIONAL SUBMISSION OF RE-
4 PORT.—The committees described in this sub-
5 paragraph are the following:

6 “(i) The Committee on Oversight and
7 Government Reform of the House of Rep-
8 resentatives.

9 “(ii) The Committees on Homeland
10 Security and Governmental Affairs and the
11 Judiciary of the Senate.

12 “(D) DIRECT SUBMISSION OF REPORTS
13 AND TESTIMONY.—Any report submitted under
14 paragraph (A), any testimony, or any other
15 communication to Congress shall be submitted
16 directly to the committees and the President,
17 without any requirement that any officer or em-
18 ployee outside of the Office of Government In-
19 formation Services, including the Archivist of
20 the United States and the Director of the Of-
21 fice of Management and Budget, review such
22 report, testimony, or other communication.

23 “(5) SUBMISSION OF ADDITIONAL INFORMA-
24 TION.—The Director of the Office of Government
25 Information Services may submit additional informa-

1 tion to Congress and the President that the Director
2 determines to be appropriate.

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

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

11 (1) in clause (i), by striking “of such deter-
12 mination and the reasons therefor, and of the right
13 of such person to appeal to the head of the agency
14 any adverse determination; and” and inserting the
15 following: “of—

16 “(I) such determination and the reasons
17 therefor;

18 “(II) the right of such person to seek as-
19 sistance from the agency FOIA Public Liaison;
20 and

21 “(III) the right of such person to appeal to
22 the head of the agency any adverse determina-
23 tion, within a period determined by the agency
24 that is not less than 90 days after the receipt
25 of such adverse determination; and”;

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

6 (e) ADDITIONAL DISCLOSURE OF INFORMATION RE-
7 QUIREMENTS.—Section 552(a) of title 5, United States
8 Code, is amended by adding at the end the following new
9 paragraphs:

10 “(8) DISCLOSURE OF INFORMATION FOR IN-
11 CREASED PUBLIC UNDERSTANDING OF THE GOVERN-
12 MENT.—Each agency shall—

13 “(A) review the records of such agency to
14 determine whether the release of the records
15 would be in the public interest because it is
16 likely to contribute significantly to public un-
17 derstanding of the operations or activities of the
18 Government;

19 “(B) for records determined to be in the
20 public interest under subparagraph (A), reason-
21 ably segregate and redact any information ex-
22 empted from disclosure under subsection (b);
23 and

24 “(C) make available in an electronic, pub-
25 licly accessible format, any records identified in

1 subparagraph (A), as modified pursuant to sub-
2 paragraph (B).

3 “(9) INCREASED DISCLOSURE OF INFORMA-
4 TION.—Each agency shall—

5 “(A) make information public to the great-
6 est extent possible through modern technology
7 to—

8 “(i) inform the public of the oper-
9 ations and activities of the Government;
10 and

11 “(ii) ensure timely disclosure of infor-
12 mation; and

13 “(B) establish procedures for identifying
14 categories of records that may be disclosed reg-
15 ularly and additional records of interest to the
16 public that are appropriate for public disclo-
17 sure, and for posting such records in an elec-
18 tronic, publicly accessible format.”.

19 (f) REPORT ON CATEGORIES OF INFORMATION FOR
20 DISCLOSURE.—Not later than one year after the date of
21 the enactment of this Act, and every two years thereafter,
22 the Director of the Office of Information Policy of the De-
23 partment of Justice, after consultation with agencies se-
24 lected by the Director, shall submit to the Committee on
25 Oversight and Government Reform of the House of Rep-

1 representatives and the Committees on Homeland Security
2 and Governmental Affairs and the Judiciary of the Senate
3 a report that identifies categories of records that would
4 be appropriate for proactive disclosure, and shall make
5 such report available in an electronic, publicly accessible
6 format.

7 (g) AGENCY FOIA REPORT.—Section 552(e) of title
8 5, United States Code, is amended—

9 (1) in paragraph (1)—

10 (A) by inserting “and to the Director of
11 the Office of Government Information Services”
12 after “the Attorney General of the United
13 States”;

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

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

18 (D) by adding at the end the following new
19 subparagraphs:

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

22 “(Q) the number of times the agency engaged
23 in dispute resolution with the assistance of the Of-
24 fice of Government Information Services or the
25 FOIA Public Liaison;

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

4 “(S) the number of times the agency assessed
5 a search or duplication fee under subsection
6 (a)(4)(A) and did not comply with a time limit
7 under subsection (a)(6).”;

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

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

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

19 “(B) capable of being searched and aggre-
20 gated; and

21 “(C) permitted to be downloaded and
22 downloaded in bulk.”;

23 (3) in paragraph (4)—

24 (A) by striking “Committee on Govern-
25 ment Reform and Oversight” and inserting

1 “Committee on Oversight and Government Re-
2 form”;

3 (B) by striking “Governmental Affairs”
4 and inserting “Homeland Security and Govern-
5 mental Affairs”; and

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

8 (4) in paragraph (5)—

9 (A) by inserting “and the Director of the
10 Office of Government Information Services”
11 after “the Director of the Office of Manage-
12 ment and Budget”; and

13 (B) by striking “by October 1, 1997”; and
14 (5) by amending paragraph (6) to read as fol-
15 lows:

16 “(6) ATTORNEY GENERAL FOIA REPORT.—

17 “(A) IN GENERAL.—The Attorney General
18 of the United States shall submit to Congress
19 and the President an annual report on or before
20 March 1 of each calendar year which shall in-
21 clude for the prior calendar year—

22 “(i) a listing of the number of cases
23 arising under this section;

24 “(ii) each subsection under this sec-
25 tion, each paragraph of the subsection, and

1 any exemption, if applicable, involved in
2 each case, the disposition of such case, and
3 the cost, fees, and penalties assessed under
4 subparagraphs (E), (F), and (G) of sub-
5 section (a)(4); and

6 “(iii) a description of the efforts un-
7 dertaken by the Department of Justice to
8 encourage agency compliance with this sec-
9 tion.

10 “(B) ELECTRONIC AVAILABILITY.—The
11 Attorney General of the United States—

12 “(i) shall make each report described
13 under subparagraph (A) available in an
14 electronic, publicly accessible format; and

15 “(ii) shall make the raw statistical
16 data used in each report available in an
17 electronic, publicly accessible format, which
18 shall be—

19 “(I) made available without
20 charge, license, or registration re-
21 quirement;

22 “(II) capable of being searched
23 and aggregated; and

1 “(III) permitted to be
2 downloaded, including downloaded in
3 bulk.”.

4 (h) SEARCH OR DUPLICATION FEES.—Section
5 552(a)(4)(A)(viii) of title 5, United States Code, is amend-
6 ed by adding at the end the following new sentence: “Any
7 agency that does assess search or duplication fees after
8 failing to comply with a time limit under paragraph (6)
9 shall provide written notice to the requester of the cir-
10 cumstance that justifies the fees. If an agency fails to pro-
11 vide such notice, the agency may not assess search or du-
12 plication fees.”.

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

16 “(i) GOVERNMENT ACCOUNTABILITY OFFICE.—The
17 Government Accountability Office shall—

18 “(1) conduct audits of administrative agencies
19 on compliance with and implementation of the re-
20 quirements of this section and issue reports detailing
21 the results of such audits;

22 “(2) catalog the number of exemptions under
23 subsection (b)(3) and agency use of such exemp-
24 tions; and

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

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

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

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

14 “(j) CHIEF FOIA OFFICER.—

15 “(1) DESIGNATION.—Each agency shall des-
16 ignate a Chief FOIA Officer who shall be a senior
17 official of such agency (at the Assistant Secretary or
18 equivalent level).

19 “(2) DUTIES.—The Chief FOIA Officer of each
20 agency shall, subject to the authority of the head of
21 the agency—

22 “(A) have agency-wide responsibility for ef-
23 ficient and appropriate compliance with this
24 section;

1 “(B) monitor implementation of this sec-
2 tion throughout the agency and keep the head
3 of the agency, the chief legal officer of the
4 agency, and the Attorney General appropriately
5 informed of the agency’s performance in imple-
6 menting this section;

7 “(C) recommend to the head of the agency
8 such adjustments to agency practices, policies,
9 personnel, and funding as may be necessary to
10 improve its implementation of this section;

11 “(D) review and report to the Attorney
12 General, through the head of the agency, at
13 such times and in such formats as the Attorney
14 General may direct, on the agency’s perform-
15 ance in implementing this section;

16 “(E) facilitate public understanding of the
17 purposes of the statutory exemptions of this
18 section by including concise descriptions of the
19 exemptions in both the agency’s handbook
20 issued under subsection (g), and the agency’s
21 annual report on this section, and by providing
22 an overview, where appropriate, of certain gen-
23 eral categories of agency records to which those
24 exemptions apply;

1 “(F) serve as the primary agency liaison
2 with the Office of Government Information
3 Services and the Office of Information Policy;
4 and

5 “(G) designate one or more FOIA Public
6 Liaisons.

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

9 “(A) review, not less than annually, all as-
10 pects of the agency’s administration of this sec-
11 tion to ensure compliance with the requirements
12 of this section, including—

13 “(i) agency regulations;

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

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

19 “(iv) the timely processing of requests
20 for information under this section;

21 “(v) the use of exemptions under sub-
22 section (b); and

23 “(vi) dispute resolution services with
24 the assistance of the Office of Government

1 Information Services or the FOIA Public
2 Liaison; and

3 “(B) make recommendations as necessary
4 to improve agency practices and compliance
5 with this section.

6 “(k) CHIEF FOIA OFFICERS COUNCIL.—

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

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

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

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

16 “(C) The Director of the Office of Govern-
17 ment Information Services at the National Ar-
18 chives and Records Administration.

19 “(D) The Chief FOIA Officer of each
20 agency.

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

23 “(3) CO-CHAIRS.—The Director of the Office of
24 Information Policy at the Department of Justice and
25 the Director of the Office of Government Informa-

1 tion Services at the National Archives and Records
2 Administration shall be the Co-Chairs of the Coun-
3 cil.

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

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

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

12 “(A) Develop recommendations for increas-
13 ing compliance and efficiency under this sec-
14 tion.

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

18 “(C) Identify, develop, and coordinate ini-
19 tiatives to increase transparency and compli-
20 ance with this section.

21 “(D) Promote the development and use of
22 common performance measures for agency com-
23 pliance with this section.

24 “(7) MEETINGS.—

1 “(A) REGULAR MEETINGS.—The Council
2 shall meet regularly and such meetings shall be
3 open to the public unless the Council deter-
4 mines to close the meeting for reasons of na-
5 tional security or to discuss information exempt
6 under subsection (b).

7 “(B) ANNUAL MEETINGS.—Not less than
8 once a year, the Council shall hold a meeting
9 that shall be open to the public and permit in-
10 terested persons to appear and present oral and
11 written statements to the Council.

12 “(C) NOTICE.—Not later than 10 business
13 days before a meeting of the Council, notice of
14 such meeting shall be published in the Federal
15 Register.

16 “(D) PUBLIC AVAILABILITY OF COUNCIL
17 RECORDS.—Except as provided in subsection
18 (b), the records, reports, transcripts, minutes,
19 appendixes, working papers, drafts, studies,
20 agenda, or other documents that were made
21 available to or prepared for or by the Council
22 shall be made publicly available.

23 “(E) MINUTES.—Detailed minutes of each
24 meeting of the Council shall be kept and shall
25 contain a record of the persons present, a com-

1 plete and accurate description of matters dis-
2 cussed and conclusions reached, and copies of
3 all reports received, issued, or approved by the
4 Council.”.

5 (k) REGULATIONS.—

6 (1) REVISION OF REGULATIONS.—Not later
7 than 180 days after the date of the enactment of
8 this Act, the head of each agency shall review the
9 regulations of such agency and shall issue regula-
10 tions on procedures for the disclosure of records
11 under section 552 of title 5, United States Code, in
12 accordance with the amendments made by this sec-
13 tion. The regulations of each agency shall include—

14 (A) procedures for engaging in dispute res-
15 olution; and

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

18 (2) OFFICE OF GOVERNMENT INFORMATION
19 SERVICES REPORT.—Not later than 270 days after
20 the date of the enactment of this Act, the Office of
21 Government Information Services shall submit to
22 Congress a report on agency compliance with the re-
23 quirements of this subsection.

24 (3) REPORT ON NONCOMPLIANCE.—The head
25 of any agency that does not meet the requirements

1 of paragraph (1) shall submit to Congress a report
2 on the reason for noncompliance not later than 270
3 days after the date of the enactment of this Act.

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

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

13 **SEC. 3. INSPECTOR GENERAL REVIEW; ADVERSE ACTIONS.**

14 (a) INSPECTOR GENERAL REVIEW.—

15 (1) IN GENERAL.—The Inspector General of
16 each agency shall—

17 (A) periodically review compliance with the
18 requirements of section 552 of title 5, United
19 States Code, including the timely processing of
20 requests, assessment of fees and fee waivers,
21 and the use of exemptions under subsection (b)
22 of such section; and

23 (B) make recommendations the Inspector
24 General determines to be necessary to the head

1 of the agency, including recommendations for
2 disciplinary action.

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

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

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

14 No additional funds are authorized to carry out the
15 requirements of this Act and the amendments made by
16 this Act. Such requirements shall be carried out using
17 amounts otherwise authorized or appropriated.

