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(Original Signature of Member)

113TH CONGRESS  
1ST SESSION

**H. R. 1211**

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.

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IN THE HOUSE OF REPRESENTATIVES

Mr. ISSA introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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**A BILL**

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FOIA Oversight and  
5 Implementation Act of 2013” or the “FOIA Act”.

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

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

4 (1) in subsection (a)—

5 (A) in paragraph (2)—

6 (i) by striking “for public inspection  
7 and copying” and inserting “in an elec-  
8 tronic, publicly accessible format”;

9 (ii) by striking subparagraph (E) and  
10 inserting the follow new subparagraphs:

11 “(E) copies of all records, regardless of form or  
12 format, that have been released three or more times  
13 under paragraph (3); and

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

16 (iii) in the matter proceeding subpara-  
17 graph (F) (as added by clause (ii) of this  
18 subparagraph)—

19 (I) by striking “subparagraph  
20 (D)” and inserting “subparagraphs  
21 (D) and (E)”; and

22 (II) by striking “subparagraph  
23 (E)” and inserting “subparagraph  
24 (F)”; and

25 (B) in paragraph (7)—

1 (i) in subparagraph (A), by striking  
2 “that will take longer than ten days to  
3 process”; and

4 (ii) in subparagraph (B), by inserting  
5 “automated” after “provides”; and

6 (2) in subsection (g), by striking “make publicly  
7 available upon request” and inserting “make avail-  
8 able in an electronic, publicly accessible format”;

9 (3) in subsection (i), by striking “the implemen-  
10 tation” and inserting “compliance with and imple-  
11 mentation of the requirements”; and

12 (4) by adding at the end the following new sub-  
13 section:

14 “(m) FOIA WEBSITE REQUIRED.—Not later than  
15 one year after the date of enactment of this subsection,  
16 the Office of Management and Budget shall ensure the  
17 existence and operation of a single website, accessible by  
18 the public at no cost to access, that allows the public to—

19 “(1) submit requests for records under sub-  
20 section (a)(3); and

21 “(2) receive automated information about the  
22 status of a request under subsection (a)(7).”.

23 (b) PRESUMPTION OF OPENNESS.—Section 552(b) of  
24 title 5, United States Code, is amended in the matter pre-

1 ceding paragraph (1), by inserting “that would cause fore-  
2 seeable harm and” after “matters”.

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

6 (1) in subsection (a)(4)(A)(i), by striking “the  
7 Director of the Office of Management and Budget”  
8 and inserting “the Director of the Office of Manage-  
9 ment and Budget, in consultation with the Director  
10 of the Office of Government Information Services,”;  
11 and

12 (2) subsection (h) is amended to read as fol-  
13 lows:

14 “(h) THE OFFICE OF GOVERNMENT INFORMATION  
15 SERVICES.—

16 “(1) ESTABLISHMENT.—There is established  
17 the Office of Government Information Services with-  
18 in the National Archives and Records Administra-  
19 tion. The head of the Office is the Director of the  
20 Office of Government Information Services.

21 “(2) REVIEW OF FOIA POLICY, PROCEDURE,  
22 AND COMPLIANCE.—The Office of Government In-  
23 formation Services shall—

24 “(A) review policies and procedures of  
25 agencies under this section;

1           “(B) review compliance with this section  
2           by agencies; and

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

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

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

9                   “(iii) the use of any exemption under  
10                  subsection (b); and

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

13           “(3) MEDIATION SERVICES.—The Office of  
14           Government Information Services shall offer medi-  
15           ation services to resolve disputes between persons  
16           making requests under this section and agencies as  
17           a non-exclusive alternative to litigation and, at the  
18           discretion of the Office, may issue advisory opinions  
19           if mediation has not resolved the dispute.

20           “(4) SUBMISSION OF REPORT.—

21                   “(A) IN GENERAL.—The Office of Govern-  
22                   ment Information Services shall not less than  
23                   annually submit to the committees described in  
24                   subparagraph (C) and the President a report on  
25                   the findings from the information reviewed and

1 identified under paragraph (2) and legislative  
2 and regulatory recommendations to improve the  
3 administration of this section.

4 “(B) ELECTRONIC AVAILABILITY OF RE-  
5 PORTS.—The Office shall make available any  
6 report submitted under paragraph (A) in a pub-  
7 licly accessible format.

8 “(C) CONGRESSIONAL SUBMISSION OF RE-  
9 PORT.—The committees described in this sub-  
10 paragraph are the following:

11 “(i) The Committee on Oversight and  
12 Government Reform of the House of Rep-  
13 resentatives.

14 “(ii) The Committees on Homeland  
15 Security and Governmental Affairs and the  
16 Judiciary of the Senate.

17 “(D) DIRECT SUBMISSION OF REPORT.—  
18 Any report submitted under paragraph (A)  
19 shall be submitted directly to the committees  
20 and the President, without any requirement  
21 that any officer or employee outside of the Of-  
22 fice of Government Information Services, in-  
23 cluding the Archivist of the United States and  
24 the Director of the Office of Management and  
25 Budget, review such report.

1           “(5) SUBMISSION OF ADDITIONAL INFORMA-  
2           TION.—The Director of the Office of Government  
3           Information Services may submit additional informa-  
4           tion to Congress and the President that the Director  
5           determines to be appropriate.

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

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

14                 (1) in clause (i), by striking “such determina-  
15                 tion and the reasons therefor, and of the right of  
16                 such person to appeal to the head of the agency any  
17                 adverse determination; and” and inserting the fol-  
18                 lowing new subclauses:

19                         “(I) such determination and the reasons  
20                         therefor;

21                         “(II) the right of such person to seek as-  
22                         sistance from the agency FOIA Public Liaison;  
23                         and

24                         “(III) the right of such person to appeal to  
25                         the head of the agency any adverse determina-

1           tion, not later than 90 days after the receipt of  
2           such adverse determination; and”;

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

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

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

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

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



1           “(C) make available in an electronic, pub-  
2           licly accessible format, any records identified in  
3           subparagraph (A), as modified pursuant to sub-  
4           paragraph (B).

5           “(9) INCREASED DISCLOSURE OF INFORMA-  
6           TION.—Each agency shall—

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

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

13           “(ii) ensure timely disclosure of infor-  
14           mation; and

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

21           (f) AGENCY FOIA REPORT.—Section 552(e) of title  
22           5, United States Code, is amended—

23           (1) in paragraph (1)—

24           (A) by inserting “and to the Director of  
25           the Office of Government Information Services”

1 after “the Attorney General of the United  
2 States”;

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

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

7 (D) by adding at the end the following new  
8 subparagraphs:

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

11 “(Q) the number of times the agency engaged  
12 in dispute resolution with the assistance of the Of-  
13 fice of Government Information Services or the  
14 FOIA Public Liaison; and

15 “(R) the number of records that were made  
16 available in an electronic, publicly accessible format  
17 under subsection (a)(2).”;

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

20 “(3) ELECTRONIC ACCESSIBILITY OF RE-  
21 PORTS.—Each agency shall make each such report  
22 available in an electronic, publicly accessible format.  
23 In addition, each agency shall make the raw statis-  
24 tical data used in its reports available in a timely

1 manner in an electronic, publicly accessible format.

2 Such data shall be—

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

5 “(B) capable of being searched and aggre-  
6 gated; and

7 “(C) permitted to be downloaded and  
8 downloaded in bulk.”;

9 (3) in paragraph (4)—

10 (A) by striking “Committee on Govern-  
11 ment Reform and Oversight” and inserting  
12 “Committee on Oversight and Government Re-  
13 form”;

14 (B) by striking “Governmental Affairs”  
15 and inserting “Homeland Security and Govern-  
16 mental Affairs”; and

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

19 (4) in paragraph (5)—

20 (A) by inserting “and the Director of the  
21 Office of Government Information Services”  
22 after “the Director of the Office of Manage-  
23 ment and Budget”; and

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

1 (5) by amending paragraph (6) to read as fol-  
2 lows:

3 “(6) ATTORNEY GENERAL FOIA REPORT.—

4 “(A) IN GENERAL.—The Attorney General  
5 of the United States shall submit to Congress  
6 and the President an annual report on or before  
7 March 1 of each calendar year which shall in-  
8 clude for the prior calendar year—

9 “(i) a listing of the number of cases  
10 arising under this section;

11 “(ii) each subsection under this sec-  
12 tion, each paragraph of the subsection, and  
13 any exemption, if applicable, involved in  
14 each case, the disposition of such case, and  
15 the cost, fees, and penalties assessed under  
16 subparagraphs (E), (F), and (G) of sub-  
17 section (a)(4); and

18 “(iii) a description of the efforts un-  
19 dertaken by the Department of Justice to  
20 encourage agency compliance with this sec-  
21 tion.

22 “(B) ELECTRONIC AVAILABILITY.—The  
23 Attorney General of the United States—

1           \* “(i) shall make each report described  
2           under subparagraph (A) available in an  
3           electronic, publicly accessible format; and

4           “(ii) shall make the raw statistical  
5           data used in each report available in an  
6           electronic, publicly accessible format, which  
7           shall be—

8                   “(I) made available without  
9                   charge, license, or registration re-  
10                  quirement;

11                  “(II) capable of being searched  
12                  and aggregated; and

13                  “(III) permitted to be  
14                  downloaded, including downloaded in  
15                  bulk.”.

16           (g) GOVERNMENT ACCOUNTABILITY OFFICE.—Sub-  
17           section (i) of section 552 of title 5, United States Code,  
18           is amended to read as follows:

19           “(i) GOVERNMENT ACCOUNTABILITY OFFICE.—The  
20           Government Accountability Office shall—

21                   “(1) conduct audits of administrative agencies  
22                   on the implementation of this section and issue re-  
23                   ports detailing the results of such audits; and

1           “(2) catalog the number of exemptions under  
2 subsection (b)(3) and agency use of such exemp-  
3 tions.”.

4           (h) CHIEF FOIA OFFICER RESPONSIBILITIES;  
5 COUNCIL; REVIEW.—Section 552 of title 5, United States  
6 Code is amended—

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

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

10          “(j) CHIEF FOIA OFFICER.—

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

15           “(2) DUTIES.—The Chief FOIA Officer of each  
16 agency shall, subject to the authority of the head of  
17 the agency—

18           “(A) have agency-wide responsibility for ef-  
19 ficient and appropriate compliance with this  
20 section;

21           “(B) monitor implementation of this sec-  
22 tion throughout the agency and keep the head  
23 of the agency, the chief legal officer of the  
24 agency, and the Attorney General appropriately

1 informed of the agency's performance in imple-  
2 menting this section;

3           “(C) recommend to the head of the agency  
4 such adjustments to agency practices, policies,  
5 personnel, and funding as may be necessary to  
6 improve its implementation of this section;

7           “(D) review and report to the Attorney  
8 General, through the head of the agency, at  
9 such times and in such formats as the Attorney  
10 General may direct, on the agency's perform-  
11 ance in implementing this section;

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

21           “(F) 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 du-  
24 ties, the Council shall consult regularly with mem-

1       bers of the public who make requests under this sec-  
2       tion.

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

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

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

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

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

17          “(7) MEETINGS.—

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

24           “(B) ANNUAL MEETINGS.—Not less than  
25      once a year, the Council shall hold a meeting

1 that shall be open to the public and permit in-  
2 terested persons to appear and present oral and  
3 written statements to the Council.

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

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

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

22 (i) REGULATIONS.—

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

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

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

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

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

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

21 (4) INSPECTOR GENERAL REVIEW FOR NON-  
22 COMPLIANCE.—Any agency that fails to comply with  
23 the requirements of this subsection shall be reviewed  
24 by the Office of Inspector General of such agency

1 for compliance with section 552 of title 5, United  
2 States Code.

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

6 **SEC. 3. PILOT PROGRAM.**

7 (a) ESTABLISHMENT.—The Director of the Office of  
8 Management and Budget shall establish a pilot program  
9 for 3 years to review the benefits of FOIAonline to process  
10 requests and release information under section 552 of title  
11 5, United States Code (commonly known as the Freedom  
12 of Information Act).

13 (b) PLAN REQUIRED.—Not later than 90 days after  
14 the date of the enactment of this Act, the Director of the  
15 Office of Management and Budget shall establish a plan  
16 to evaluate FOIAonline at no less than 3 agencies that  
17 have not previously participated in FOIAonline, including  
18 at least one of the following:

19 (1) An agency that receives more than 50,000  
20 requests annually for information under section 552  
21 of title 5, United States Code.

22 (2) An agency that receives between 25,000 and  
23 50,000 requests annually for information under such  
24 section.

1           (3) An agency that receives 25,000 or fewer re-  
2           quests annually for information under such section.

3           (c) AGENCY USE OF WEBSITE.—Each agency se-  
4           lected under subsection (b) shall use FOIAonline to—

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

7           (2) process requests received under such sec-  
8           tion;

9           (3) track the status of requests submitted  
10          under such section; and

11          (4) make records released available publicly on  
12          FOIAonline.

13          (d) REVIEW REQUIRED.—The Director of the Office  
14          of Management and Budget shall, in consultation with the  
15          Attorney General, the Office of Government Information  
16          Services, and the head of each agency participating in the  
17          pilot program, review the benefits of FOIAonline, includ-  
18          ing—

19          (1) any cost saving, resource saving, or effi-  
20          ciency gained through the use of FOIAonline;

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

24          (3) any increase in transparency and accessi-  
25          bility to Government information; and

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

5           (e) REPORT REQUIRED.—Not later than 3 months  
6           after the completion of the pilot program, the head of each  
7           agency participating in the program shall submit to Con-  
8           gress a report on the impact of the pilot program on agen-  
9           cy processes under section 552 of title 5, United States  
10          Code, whether the agency will continue to participate in  
11          FOIAonline, and any recommendations the head of the  
12          agency considers appropriate to continue the use of  
13          FOIAonline.

14          (f) DEFINITIONS.—In this section:

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

18           (2) FOIAONLINE.—The term “FOIAonline”  
19           means the electronic online portal  
20           FOIAonline.regulations.gov.