Suspend the Rules and Pass the Bill, H.R. 653, With an Amendment
(The amendment strikes all after the enacting clause and inserts a
new text)

114TH CONGRESS
2D SESSION

H. R. 653

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2015

Mr. ISSA (for himself, Mr. CUMMINGS, and Mr. QUIGLEY) introduced the fol-
lowing bill; which was referred to the Committee on Oversight and Gov-
ernment Reform

A BILL

To amend section 552 of title 5, United States Code (com-
monly 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 2015” or the “FOIA Act”.

f:\VHLC\011016\011016.003.xml (62083011)
January 10, 2016 (7:49 p.m.)
SEC. 2. FREEDOM OF INFORMATION ACT AMENDMENTS.

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

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by striking “for public inspection and copying” each place it appears and inserting “in an electronic, publicly accessible format”;

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

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

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

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

and

(iv) in the matter following subparagraph (F) (as added by clause (iii) of this subparagraph)—

(I) by striking “subparagraph (D)” and inserting “subparagraphs (D) and (E)”;}
(II) by striking “subparagraph (E)” and inserting “subparagraph (F)”; and

(B) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking “that will take longer than ten days to process”; and

(II) by striking “; and” and inserting a semicolon;

(ii) in subparagraph (B)—

(I) by inserting “automated” after “provides”; and

(II) by striking the period at the end of clause (ii) and inserting “; and”;

(iii) by adding at the end the following new subparagraph:

“(C) provide a name, phone number, and email address for an agency employee who can provide current information about the status of each request received.”;

(2) in subsection (g), by striking “make publicly available upon request” and inserting “make available in an electronic, publicly accessible format”; and
(3) by adding at the end the following new subsection:

“(m) ELECTRONIC SUBMISSION OF REQUESTS.—

“(1) CONSOLIDATED ONLINE REQUEST PORTAL.—The Director of the Office of Management and Budget, in consultation with the Attorney General, shall ensure the operation of a consolidated online request portal that allows a member of the public to submit a request for records under subsection (a) to any agency from a single website. The portal may include any additional tools the Director of the Office of Management and Budget finds will improve the implementation of this section.

“(2) RULE OF CONSTRUCTION.—This subsection shall not be construed to alter the power of any other agency to create or maintain an independent online portal for the submission of a request for records under this section. The Director of the Office of Management and Budget shall establish standards for interoperability between the portal required under paragraph (1) and other request processing software used by agencies subject to this section.

“(3) EMAIL REQUEST REQUIRED.—At a minimum, each agency shall accept requests for records
under subsection (a) through an email address and shall publish such email address on the website of the agency.”.

(b) Presumption of Openness.—

(1) Amendments.—Section 552(b) of title 5, United States Code, is amended—

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

“(A) opinions that are controlling interpretations of law;

“(B) final reports or memoranda created by an entity other than the agency, including other Governmental entities, at the request of the agency and used to make a final policy decision;

“(C) guidance documents used by the agency to respond to the public; and

“(D) records or information created 25 years or more before the date on which a request is made under subsection (a)(3);”;

(B) in paragraph (6), by striking “similar files” and inserting “personal information such as contact information or financial information”; and
(C) in the matter following paragraph (9)—

(i) by inserting before “Any reason-
ably segregable portion” the following: “An agency may not withhold information under this subsection unless such agency reasonably foresees that disclosure would cause specific identifiable harm to an interest protected by an exemption, or if disclo-
sure is prohibited by law;” and

(ii) by inserting before “If technically feasible,” the following: “For each record withheld in whole or in part under para-
graph (3), the agency shall identify the statute that exempts the record from disclo-
sure.”

(2) RULES OF CONSTRUCTION.—

(A) INTELLIGENCE SOURCES AND METH-
ODS.—Nothing in the amendments made by this Act to section 552(b) of title 5, United States Code, shall be construed to require the disclosure of information that—

(i) is exempt under paragraph (1) of such section; or
(ii) would adversely affect intelligence sources and methods that are protected by an exemption under such section.

(B) PERSONAL PRIVACY.—For purposes of section 552(b)(6) of title 5, United States Code, as amended by this Act, the term “personal privacy” may not be construed to include the name of a Federal employee engaged in an official duty of such employee.

(3) EXEMPTION DECISION TRANSPARENCY.—Section 552(a)(6)(C)(i) of title 5, United States Code, is amended by striking the fourth sentence and inserting at the end the following: “Any notification of denial or partial denial of any request for records under this subsection shall set forth each name and title or position of each person responsible for the denial or partial denial or any decision to withhold a responsive record under subsection (b).”.

(c) REQUESTS FROM CONGRESS.—Section 552(d) of title 5, United States Code, is amended by adding at the end the following: “In responding to requests from Congress for information, an agency may not assert that information may be withheld from Congress under this section.”.
(d) Assessment of Attorney Fees and Other Litigation Costs.—Section 552(a)(4)(E)(i) of title 5, United States Code, is amended by striking “The court may” and inserting “The court shall”.

(e) Office of Government Information Services.—Section 552 of title 5, United States Code, is amended—

(1) in subsection (a)(4)(A)(i), by striking “the Director of the Office of Management and Budget” and inserting “the Director of the Office of Management and Budget, in consultation with the Director of the Office of Government Information Services,”;

and

(2) by amending subsection (h) to read as follows:

“(h) Office of Government Information Services.—

“(1) Establishment.—There is established the Office of Government Information Services within the National Archives and Records Administration. The head of the Office is the Director of the Office of Government Information Services.

“(2) Review of FOIA Policy, Procedure, and Compliance.—The Office of Government Information Services shall—
“(A) review policies and procedures of agencies under this section;

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

“(C) identify methods that improve compliance under this section that may include—

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

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

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

“(D) review and provide guidance to agencies on the use of fees and fee waivers.

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

“(4) SUBMISSION OF REPORT.—

“(A) IN GENERAL.—The Office of Government Information Services shall not less than
annually submit to the committees described in subparagraph (C) and the President a report on the findings from the information reviewed and identified under paragraph (2), a summary of the Office’s activities under paragraph (3) (including any advisory opinions issued), and legislative and regulatory recommendations to improve the administration of this section.

“(B) ELECTRONIC AVAILABILITY OF REPORTS.—The Office shall make available any report submitted under subparagraph (A) in an electronic, publicly accessible format.

“(C) CONGRESSIONAL SUBMISSION OF REPORT.—The committees described in this subparagraph are the following:

“(i) The Committee on Oversight and Government Reform of the House of Representatives.


“(D) DIRECT SUBMISSION OF REPORTS AND TESTIMONY.—Any report submitted under subparagraph (A), any testimony, or any other communication to Congress shall be submitted
directly to the committees and the President,
without any requirement that any officer or em-
ployee outside of the Office of Government In-
formation Services, including the Archivist of
the United States and the Director of the Of-
"(5) Submission of additional information.—The Director of the Office of Government Information Services may submit additional informa-
tion to Congress and the President that the Director
determines to be appropriate.
"(6) Annual meeting required.—Not less
than once a year, the Office of Government Informa-
tion Services shall hold a meeting that is open to the
public on the review and reports by the Office and
permit interested persons to appear and present oral
or written statements at such meeting.”.
(f) Public resources.—Section 552(a)(6) of title
5, United States Code, is amended—
(1) in subparagraph (A)—
(A) in clause (i), by striking “of such de-
termination and the reasons therefor, and of
the right of such person to appeal to the head
of the agency any adverse determination; and”
and inserting the following: “of—

“(I) such determination and the rea-
sons therefor;

“(II) the right of such person to seek
assistance from the agency FOIA Public
Liaison; and

“(III) the right of such person to ap-
peal to the head of the agency any adverse
determination, within a period determined
by the agency that is not less than 90 days
after the receipt of such adverse deter-
mination; and”; and

(B) in clause (ii), by striking the period at
the end and inserting the following: “and the
right of such person to seek dispute resolution
services from the agency FOIA Public Liaison
or the Office of Government Information Serv-
ices.”;

(2) in subparagraph (B)—

(A) by redesignating clause (iv) as clause
(v); and

(B) by inserting after clause (iii) the fol-
lowing new clause (iv):
“(iv) When an agency consults with an entity with substantial interests in the determination of a request (in this clause referred to as the ‘consulted entity’):

“(I) The agency shall notify the requestor of the consultation in writing, including each of the following:

“(aa) A brief description of the consultation process.

“(bb) The name of each consulted entity, unless otherwise prohibited by law.

“(cc) An approximate number of pages, or other description of the volume of records, that each consulted entity is reviewing.

“(II) The agency shall notify the consulted entity of the need to consult in writing, including each of the following:

“(aa) An approximate number of pages, or other description of the volume of records, that the entity is requested to review.
“(bb) A request to provide a complete response within 15 days after the date on which the notification is sent and a notice that after the expiration of that time period the agency will proceed with the compliance of the request if a completed response is not received.

“(cc) If the number of records in the consultation under this clause exceeds 3,000 pages, a notification that the consulted entity shall have 15 days after the date on which the notice is sent to submit a substantial response and that a response on at least 3,000 pages not less than every five days thereafter is required to continue the consultation period.

“(dd) If the consulted entity is unable or anticipates that the entity will be unable to complete the consultation within the time

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period described, a notification
that the consulted entity may re-
quest mediation services at the
Office of Government Informa-
tion Services to set an alternative
consultation schedule.

“(III) If the requesting agency
has not received a completed request
within the time period described in
the consultation notice, the agency
shall request that the consulted entity
engage in mediation services with the
Office of Government Information
Services. If the consulted entity is an
agency, the consulted agency shall
agree to participate in mediation serv-
ices.

“(IV) If the consulted entity re-
quests or agrees to engage in medi-
ation services, the requesting agency
shall notify the requester of the medi-
ation and the opportunity to partici-
pate in the mediation, if participation
is not otherwise prohibited by law.
The parties in the mediation shall de-
16 termine a reasonable schedule of com-

pletion and a date by which the re-

questing agency shall complete the re-

sponse to the request.

“(V) If the consulted entity does

not respond or rejects the offer to me-

diate an alternative schedule, the re-

questing agency shall complete the re-

sponse to the requester.

“(VI) The previous provisions of

this clause shall not apply when the

consulted entity is an element of the

intelligence community (as defined in

section 3(4) of the National Security

Act of 1947 (50 U.S.C. 3003(4))).”;

and

(3) in subparagraph (F), by striking “any such

estimate to the person making the request, unless

providing such estimate would harm an interest pro-
tected by the exemption in subsection (b) pursuant
to which the denial is made.” and inserting the fol-

lowing: “to the person making the request the fol-

lowing:
“(i) Any such estimate, unless providing such estimate would harm an interest protected by the exemption in subsection (b) pursuant to which the denial is made.

“(ii) A list of all records requested the provision of which was denied, unless the disclosure of such record is prohibited by law.”.

(g) ADDITIONAL DISCLOSURE OF INFORMATION REQUIREMENTS.—Section 552(a) of title 5, United States Code, is amended by adding at the end the following new paragraphs:

“(8) DISCLOSURE OF INFORMATION FOR INCREASED PUBLIC UNDERSTANDING OF THE GOVERNMENT.—Each agency shall—

“(A) review the records of such agency to determine whether the release of the records would be in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government;

“(B) for records determined to be in the public interest under subparagraph (A), reasonably segregate and redact any information exempted from disclosure under subsection (b); and

“(C) make available in an electronic, publicly accessible format, any records identified in subpara-
graph (A), as modified pursuant to subparagraph
(B).

“(9) INCREASED DISCLOSURE OF INFORMATION.—
Each agency shall—

“(A) make information public to the greatest
extent possible through modern technology to—

“(i) inform the public of the operations
and activities of the Government; and

“(ii) ensure timely disclosure of informa-
tion; and

“(B) establish procedures for identifying cat-
egories of records that may be disclosed regularly
and additional records of interest to the public that
are appropriate for public disclosure, and for posting
such records in an electronic, publicly accessible for-
mat.”.

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

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

(1) in paragraph (1)—

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

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

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

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

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

“(Q) the number of times the agency engaged in dispute resolution with the assistance of the Office of Government Information Services or the FOIA Public Liaison;
“(R) the number of records that were made available in an electronic, publicly accessible format under subsection (a)(2); and

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

(2) by amending paragraph (3) to read as follows:

“(3) **Electronic Accessibility of Reports.**—

Each agency shall make each such report available in an electronic, publicly accessible format. In addition, each agency shall make the raw statistical data used in its reports available in a timely manner in an electronic, publicly accessible format. Such data shall be—

“(A) made available without charge, license, or registration requirement;

“(B) capable of being searched and aggregated; and

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

(3) in paragraph (4)—

(A) by striking “Committee on Government Reform and Oversight” and inserting
“Committee on Oversight and Government Reform”; 
(B) by striking “Governmental Affairs” and inserting “Homeland Security and Governmental Affairs”; and 
(C) by striking “April 1” and inserting “March 1”; 
(4) in paragraph (5)— 
(A) by inserting “and the Director of the Office of Government Information Services” after “the Director of the Office of Management and Budget”; and 
(B) by striking “by October 1, 1997”; and 
(5) by amending paragraph (6) to read as follows:

“(6) ATTORNEY GENERAL FOIA REPORT.—
“(A) IN GENERAL.—The Attorney General of the United States shall submit to Congress and the President an annual report on or before March 1 of each calendar year which shall include for the prior calendar year—
“(i) a listing of the number of cases arising under this section, including for each case, as applicable—
“(I) each subsection under this section;

“(II) each paragraph of each such subsection;

“(III) any exemption;

“(IV) the disposition of such case; and

“(V) the cost, fees, and penalties assessed under subparagraphs (E), (F), and (G) of subsection (a)(4); and

“(ii) a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

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

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

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

“(I) made available without charge, license, or registration requirement;

“(II) capable of being searched and aggregated; and
“(III) permitted to be downloaded, including downloaded in bulk.”.

(j) SEARCH OR DUPLICATION FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by striking clause (viii) and inserting the following new clause:

“(viii)(I) Except as provided in subclause (II), an agency shall not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees) under this subparagraph if the agency fails to comply with any time limit described in paragraph (6).

“(II)(aa) If an agency has determined that unusual circumstances apply (as the term is defined in paragraph (6)(B)) and the agency provided a timely written notice to the requester in accordance with paragraph (6)(B), a failure described in subclause (I) is excused for an additional 10 days. If the agency fails to comply with the extended time limit, the agency may not assess any search fees (or in the case of a requester described under clause (ii)(II) of this subparagraph, duplication fees).

“(bb) If an agency has determined that unusual circumstances apply and more than 3,000 pages are necessary to respond to the request, an agency may charge search fees (or in the case of a requester described under
clause (ii)(II) of this subparagraph, duplication fees) if the
agency has provided a timely written notice to the re-
quester in accordance with paragraph (6)(B) and the
agency has discussed with the requester via written mail,
electronic mail, or telephone (or made not less than 3
good-faith attempts to do so) how the requester could ef-
fectively limit the scope of the request in accordance with
paragraph (6)(B)(ii).

“(cc) If a court has determined that exceptional cir-
cumstances exist (as that term is defined in paragraph
(6)(C)), a failure described in subclause (I) shall be ex-
cused for the length of time provided by the court order.

“(ix) When assessing or estimating fees, agencies
shall provide a detailed explanation of the fee calculation,
including—

“(I) the actual or estimated number, as appro-
priate, of—

“(aa) records duplicated;

“(bb) hours of searching;

“(cc) files searched;

“(dd) records searched;

“(ee) custodians searched;

“(ff) records reviewed; and

“(gg) hours of review;
“(II) citations to the fee schedule for each category of fee assessed; and

“(III) in the case of an estimate, the basis for such estimate.”.

(k) Government Accountability Office.—Subsection (i) of section 552 of title 5, United States Code, is amended to read as follows:

“(i) Government Accountability Office.—The Government Accountability Office shall—

“(1) conduct audits of administrative agencies on compliance with and implementation of the requirements of this section and issue reports detailing the results of such audits;

“(2) catalog the number of exemptions under subsection (b)(3) and agency use of such exemptions; and

“(3) review and prepare a report on the processing of requests by agencies for information pertaining to an entity that has received assistance under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) during any period in which the Government owns or owned more than 50 percent of the stock of such entity.”.
(l) CHIEF FOIA OFFICER RESPONSIBILITIES; COUN-
cil; REVIEW.—Section 552 of title 5, United States Code,
is amended—

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

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

“(j) CHIEF FOIA OFFICER.—

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

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

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

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

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

“(D) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency’s performance in implementing this section;

“(E) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency’s handbook issued under subsection (g), and the agency’s annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply;

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

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

“(3) COMPLIANCE REVIEW REQUIRED.—The Chief FOIA Officer of each agency shall—
“(A) review, not less than annually, all aspects of the agency’s administration of this section to ensure compliance with the requirements of this section, including—

“(i) agency regulations;

“(ii) disclosure of records required under paragraphs (2), (8), and (9) of subsection (a);

“(iii) assessment of fees and determination of eligibility for fee waivers;

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

“(v) the use of exemptions under subsection (b); and

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

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

“(k) Chief FOIA Officers Council.—

“(1) Establishment.—There is established in the executive branch the Chief FOIA Officers Council (in this subsection, referred to as the ‘Council’).
“(2) MEMBERS.—The Council shall consist of
the following members:

“(A) The Deputy Director for Management of the Office of Management and Budget.

“(B) The Director of the Office of Information Policy at the Department of Justice.

“(C) The Director of the Office of Government Information Services at the National Archives and Records Administration.

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

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

“(3) CO-CHAIRS.—The Director of the Office of Information Policy at the Department of Justice and the Director of the Office of Government Information Services at the National Archives and Records Administration shall be the Co-Chairs of the Council.

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

“(5) CONSULTATION.—In performing its duties, the Council shall consult regularly with members of the public who make requests under this section.
“(6) DUTIES.—The duties of the Council include the following:

“(A) Develop recommendations for increasing compliance and efficiency under this section.

“(B) Disseminate information about agency experiences, ideas, best practices, and innovative approaches related to this section.

“(C) Identify, develop, and coordinate initiatives to increase transparency and compliance with this section.

“(D) Promote the development and use of common performance measures for agency compliance with this section.

“(7) MEETINGS.—

“(A) REGULAR MEETINGS.—The Council shall meet regularly and such meetings shall be open to the public unless the Council determines to close the meeting for reasons of national security or to discuss information exempt under subsection (b).

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

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

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

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

(m) EXCLUDED RECORDS.—Section 552(c) of title 5,
United States Code, is amended by adding at the end the
following new paragraph:

“(4) An agency shall notify the Department of Just-
tice in each instance records responsive to a request have
been identified that the agency determines are not subject
to the requirements of this section under paragraphs (1),
(2), or (3) and shall provide the Department of Justice
with a detailed justification for such determination for
each such instance. The Department of Justice shall main-
tain records of each notification and justification received.
An agency may treat records created under this paragraph
as not subject to the requirements under this section.”.

(n) AGENCY PERFORMANCE; ADVERSE ACTIONS.—

(1) IN GENERAL.—Section 552 of title 5,
United States Code, is further amended by adding
at the end the following new subsection:
“(n) AGENCY PERFORMANCE.—

“(1) PERFORMANCE REVIEWS.—Performance
appraisals under chapter 43 of this title shall include
consideration of the employee’s responsibility for,
and compliance with, this section as appropriate.

“(2) AGENCY-WIDE TRAINING.—Each agency
shall ensure agency employees receive annual train-
ing on the responsibilities of the agency under this
section, including the specific responsibilities of each
employee, such as responding promptly to requests
for records and providing all records that may be re-
sponsive to the request.
“(3) FOIA OFFICER TRAINING.—Each agency shall ensure agency employees directly responsible for fulfilling the requirements under this section receive annual training on such requirements. The annual training shall include statutory requirements (such as time limits to respond to requests for records, limitations on exemptions, and opportunities for discretionary disclosure) and any changes to this section or any interpretation of this section (such as a regulation issued under this section).

“(4) VIOLATION OF FOIA.—

“(A) INTENTIONAL.—An intentional violation of any provision of this section, including any rule, regulation, or other implementing guideline, by an officer or employee of an agency, as determined by the appropriate supervisor, shall be forwarded to the Inspector General of the agency for a verification of the violation, and upon verification, such officer or employee shall be subject to the suspension and removal provisions under subchapter II or V of chapter 75.

“(B) UNAUTHORIZED WITHHOLDING.—The withholding of information in contravention of the requirements of this section, including
any rule, regulation, or other implementing
guideline, as determined by the appropriate su-
pervisor, shall be a basis for disciplinary action
in accordance with subchapter I, II, or V of
chapter 75, as the case may be.”.

(2) Regulations.—The Office of Personnel
Management shall ensure that any performance ap-
praisal system established pursuant to chapter 43 of
title 5, United States Code, shall include the require-
ments of section 552(n)(1) of such title (as added by
paragraph (1)).

(o) Regulations; GAO Study; System of Record
Notice.—

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

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

(B) procedures for engaging with the Of-

fice of Government Information Services.
(2) GAO NON-CUSTODIAN STUDY.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall—

(A) conduct a study of not less than five agencies to assess the feasibility of implementing a policy requiring non-custodians to search for records to meet the requirements of section 552 of title 5, United States Code, and requests for documents from Congress; and

(B) submit a report on such assessment to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of such study.

(3) OFFICE OF GOVERNMENT INFORMATION SERVICES REPORT.—Not later than 270 days after the date of the enactment of this Act, the Office of Government Information Services shall submit to Congress a report on agency compliance with the requirements of this subsection.

(4) AGENCY SYSTEM OF RECORDS NOTICE REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the head of each agency shall publish in the Federal Register a system of records notice as defined in section 552a of title 5,
United States Code, which allows the Office of Government Information Services access to records to the extent necessary to meet the requirements of this Act, and the amendments made by this Act.

(5) REPORT ON NONCOMPLIANCE.—Not later than 270 days after the date of the enactment of this Act, the head of an agency that does not meet the requirements of paragraph (1) shall submit to Congress a report on the reason for noncompliance.

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

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

SEC. 3. INSPECTOR GENERAL REVIEW.

(a) PERIODIC REVIEW.—The Inspector General of each agency (as such term is defined in section 552(f) of this title 5, United States Code) shall—

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

(2) make recommendations the Inspector General determines to be necessary to the head of the agency, including recommendations for disciplinary action.

(b) REQUIRED FREQUENCY FOR CERTAIN AGENCIES.—The Inspector General of each agency (as such term is defined in section 901 of title 31, United States Code) shall complete the review and make the recommendations required under subsection (a) not less than once every two years.

SEC. 4. NO ADDITIONAL FUNDS AUTHORIZED.

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