

From Secrecy News:

Executive Branch agencies have implemented President Bush's December 2005 executive order 13392 on improving the processing of Freedom of Information Act requests "in a vigorous manner fully commensurate with the importance of this unprecedented Presidential initiative," according to an enthusiastic new report to the President from the Attorney General.

The President's order "has had an immediate and widespread positive effect on the operations of the Federal agencies that administer the FOIA," the report states.

"All 91 federal agencies subject to the FOIA have prepared improvement plans, have refined them wherever necessary, and have posted them on their Web sites for public review," according to the Justice Department. These and related steps "already have yielded significant results."

From a public access point of view, however, the results seem less significant, particularly since the executive order did not alter disclosure policy or standards at all. Instead, it sought to improve processing and productivity under the existing disclosure standards, while reducing backlogs.

As a result, some of the reforms of which the new report boasts may loom large within the government, but still appear inconsequential from the outside.

For example, using post cards to acknowledge receipt of FOIA requests instead of more formal letters is a "novel idea," the Attorney General says in his new report. It "holds great potential for improving the process." It is "an outstanding idea," the report strangely insists. "The simple use of postcards rather than standard written letters... could save countless hours."

Unfortunately, this won't do. Efficiency, while welcome, is not the same as productivity. And the executive order does little to improve productivity.

So, for example, the Federation of American Scientists sued the National Reconnaissance Office last year to compel that agency to provide unclassified budget data under the FOIA, and Judge Reggie B. Walton of the D.C. District Court ruled in our favor last July and ordered the NRO to process our request.

But although the NRO and its Justice Department representatives were unfailingly "courteous," as required by President Bush's executive order, the requested documents have still not been provided. Instead, the Justice Department is now seeking to overturn Judge Walton's order on appeal. More rudeness would be preferable if it were accompanied by more records.

Even by the yardstick of efficiency, the current FOIA regime shows a certain lack of imagination.

Perhaps the single most important step that agencies could take would be to routinely post FOIA responses on agency web sites. A number of agencies have long archived their FOIA releases in their reading rooms, where they can be manually searched. Other agencies post certain frequently requested records on their web sites on occasion. But routinely posting such documentary releases, instead of simply providing them to the individual requester, would magnify the utility of the product and enrich the FOIA process. It could be even better than post cards.