



## **D.C. agency EFOIA compliance**

**May 2010**

The D.C. Freedom of Information Act provides that each city agency with a website make available on that site all records falling within 10 categories of information, if the records were created on or after November 1, 2001.

This audit was undertaken to see how well District agencies are meeting that requirement. We reviewed websites for one additional consideration: Does the agency help citizens seeking information by displaying prominently on the website contact information and guidance on how to file a FOIA request.

The findings are based on an initial review of 54 agency sites from October to December 2009, with a check for any updates into March. This report focuses on eight of the ten categories of information the law requires agencies to post online. These eight are applicable to virtually every agency reviewed. The two categories not included in this audit relate to the recording of real estate transactions and building permits, areas that do not involve most agencies.

As first time users of D.C. agency sites, we noticed that a majority share a common website design. This generally made navigating the sites easier. However, we found, even though most sites have common section headers, About Us, Services, and Information, the locations of FOIA-mandated information were inconsistent and often difficult to find.

For example, *Minutes of Proceedings* is located under *About OPC* on the Office of Police Complaints website but under the *Information* section on the Alcoholic Beverage Regulation Administration site. Several agencies link to some of the FOIA-mandated information through an independent agency; for instance the Office of the State Superintendent of Education links to the State Board of Education. Some agencies force users to locate FOIA-mandated documents via a

search engine. One example: the Office of Zoning, provides a significant number of FOIA-mandated documents through its search engine but does not provide appropriate “key words” or an index to help find the FOIA materials. As a result, it’s possible that FOIA-mandated information that resides on the agency’s site was simply not found in this review.

Often, it was not clear what information among the many materials posted specifically fell under the umbrella of the legal mandate.

This audit is purely descriptive. It reports what was found that specifically or generally conforms to the law and its intent that citizens have online access to certain kinds of information about their government.

It was not possible, within the constraints of the review, to determine, in instances where some records responsive to the law were posted, whether other records that fall within the law’s mandate exist in agency files but have not been posted.

Nonetheless, the review showed wide disparities in compliance with the electronic records posting requirements of the Freedom of Information Act. And overall, the agencies appear to have failed to post any relevant information almost half the time.

The most egregious failure was failure to post an index to the records the law requires each agency post online. Only one of the 54 agencies met this requirement.

And only one agency met the charge to post on its website “the names, salaries, titles, and dates of employment of all employees and officers.” The Department of Human Resources does provide an Employee Compensation page that lists citywide Salary Schedules, which show the pay ranges for each employee grade. There is nothing to show the actual compensation of any particular employee or official.

In some instances, agency sites linked viewers to the online D.C. Municipal Regulations and D.C. Register, [www.dcregs.org](http://www.dcregs.org), to provide information that fell into one or more of the mandated categories. That site is provided by the Secretary of the District of Columbia and the Office of Documents and Administrative Issuances. It includes rulings, Mayor’s orders and documents of some agencies.

The FOIA law, D.C. Code 2-536, identifies 10 categories of records as public information that does not require a written FOIA request. Rather, the law provides that the information be posted on the agency website:

- (1) The names, salaries, title, and dates of employment of all employees and officers of a public body;
- (2) Administrative staff manuals and instructions to staff that affect a member of the public;
- (3) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(4) Those statements of policy and interpretations of policy, acts, and rules which have been adopted by a public body;

(5) Correspondence and materials referred to therein, by and with a public body, relating to any regulatory, supervisory, or enforcement responsibilities of the public body, whereby the public body determines, or states an opinion upon, or is asked to determine or state an opinion upon, the rights of the District, the public, or any private party;

(6) Information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds by public bodies;

(6A) Budget requests, submissions, and reports available electronically that agencies, boards, and commissions transmit to the Office of the Budget and Planning during the budget development process, as well as reports on budget implementation and execution prepared by the Office of the Chief Financial Officer, including baseline budget submissions and appeals, financial status reports, and strategic plans and performance-based budget submissions;

(7) The minutes of all proceedings of all public bodies;

(8) All names and mailing addresses of absentee real property owners and their agents; (Not included in this audit.)

(8A) All pending applications for building permits and authorized building permits, including the permit file; (Not included in this audit.)

(9) Copies of all records, regardless of form or format, which have been released to any person under this chapter and which, because of the nature of their subject matter, the public body determines have become or are likely to become the subject of subsequent requests for substantially the same records; and

(10) A general index of the records required to be posted, unless the materials are promptly published and copies offered for sale.

Here, in tabular form, is what we found in searching the websites of 54 agencies for records in those categories and to determine if they provided FOIA request information:

	<b>Information Found</b>	<b>Some Data Found</b>	<b>Nothing Found</b>	<b>Not Applicable</b>	<b>Other</b>
<b>FOIA Request Data</b>	<b>44</b>		<b>8</b>		<b>2</b>
<b>Staff, Salary Data</b>	<b>1</b>	<b>18</b>	<b>23</b>		<b>13</b>
<b>Manuals, Staff Instructions</b>	<b>13</b>	<b>10</b>	<b>28</b>		<b>3</b>
<b>Rules and Policies</b>	<b>30</b>	<b>10</b>	<b>10</b>	<b>4</b>	
<b>Opinions, Orders</b>	<b>17</b>		<b>9</b>	<b>21</b>	<b>7</b>
<b>Regulatory and Enforcement Information</b>	<b>20</b>	<b>17</b>	<b>12</b>	<b>5</b>	
<b>Contract, Account Data</b>	<b>7</b>	<b>7</b>	<b>40</b>		
<b>Meeting Minutes</b>	<b>11</b>	<b>7</b>	<b>24</b>	<b>12</b>	
<b>Frequent FOIA Requests</b>	<b>11</b>	<b>3</b>	<b>40</b>		
<b>Index of FOIA Act Items</b>	<b>1</b>		<b>53</b>		

*This audit was a joint project of the D.C. Open Government Coalition and the Investigative Reporting Workshop at American University. Primary research was done by LeeSandra Alexandre and Melissa Noel, Howard University journalism students interning at the Workshop.*