



Support the FOIA Improvement Act of 2014, S. 2520

On November 13 the US Senate Judiciary Committee is scheduled to mark-up crucial legislation to reform the Freedom of Information Act (FOIA). The bipartisan bill, S. 2520, the FOIA Improvement Act of 2014, builds on past FOIA reforms and reins in the over-use of FOIA's exemptions. S. 2520 shares several provisions that are included in HR 1211, the FOIA Oversight and Implementation Act of 2014, which was passed **unanimously** by the House earlier this year.

What the FOIA Improvement Act Does

- **Locks in the presumption of openness** by requiring that a federal agency release information responsive to a FOIA request unless the agency is required to withhold it under the law, or if there is a foreseeable harm in releasing the information.
- **Amends the “catch-all” exemption** by limiting the use of exemption 5 to material that is less than 25 years old, bringing it more in line with privileges for Presidential records.
- **Strengthens the FOIA ombuds office, the Office of Government Information Services**, by giving it the ability to bypass review of its recommendations to change FOIA practices by the Office of Management and Budget (OMB) before submitting them to Congress and the President. OMB review can be lengthy, and OMB can demand that OGIS make certain changes before the recommendations are released. The bill also clarifies OGIS' ability to issue advisory opinions at its discretion.
- **Increases oversight** by giving the Government Accountability Office responsibility for auditing agency compliance with the law. The bill also requires the GAO to catalog the estimated hundreds of provisions that require agencies to withhold information that are scattered throughout the US Code.
- **Encourages agencies to make more information available online** by requiring agencies to post released records that have been requested three times. The bill also amends the Federal Records Act to require agencies to have a system for identifying records of general interest or use to the public that should be made available as a matter of practice, without a FOIA request.
- **Clarifies an agency cannot charge fees if it fails to meet the statutory deadlines.** In 2007 Congress amended the law to motivate agencies to meet the statutory deadlines for replying to requests by prohibiting agencies from collecting fees if they miss the deadline. S. 2520 closes a loophole agencies have been abusing to collect search and duplication fees when they claim “unusual circumstances” cause them to miss the statutory deadline to respond.
- **Sets up a system for agencies to share best practices** by establishing a Chief FOIA Officer Council. The Chief FOIA Officer Council is charged with developing recommendations for increasing agency compliance with the law and increasing efficiency, sharing best agency practices, and coordinating government-wide efforts to increase transparency and open government.