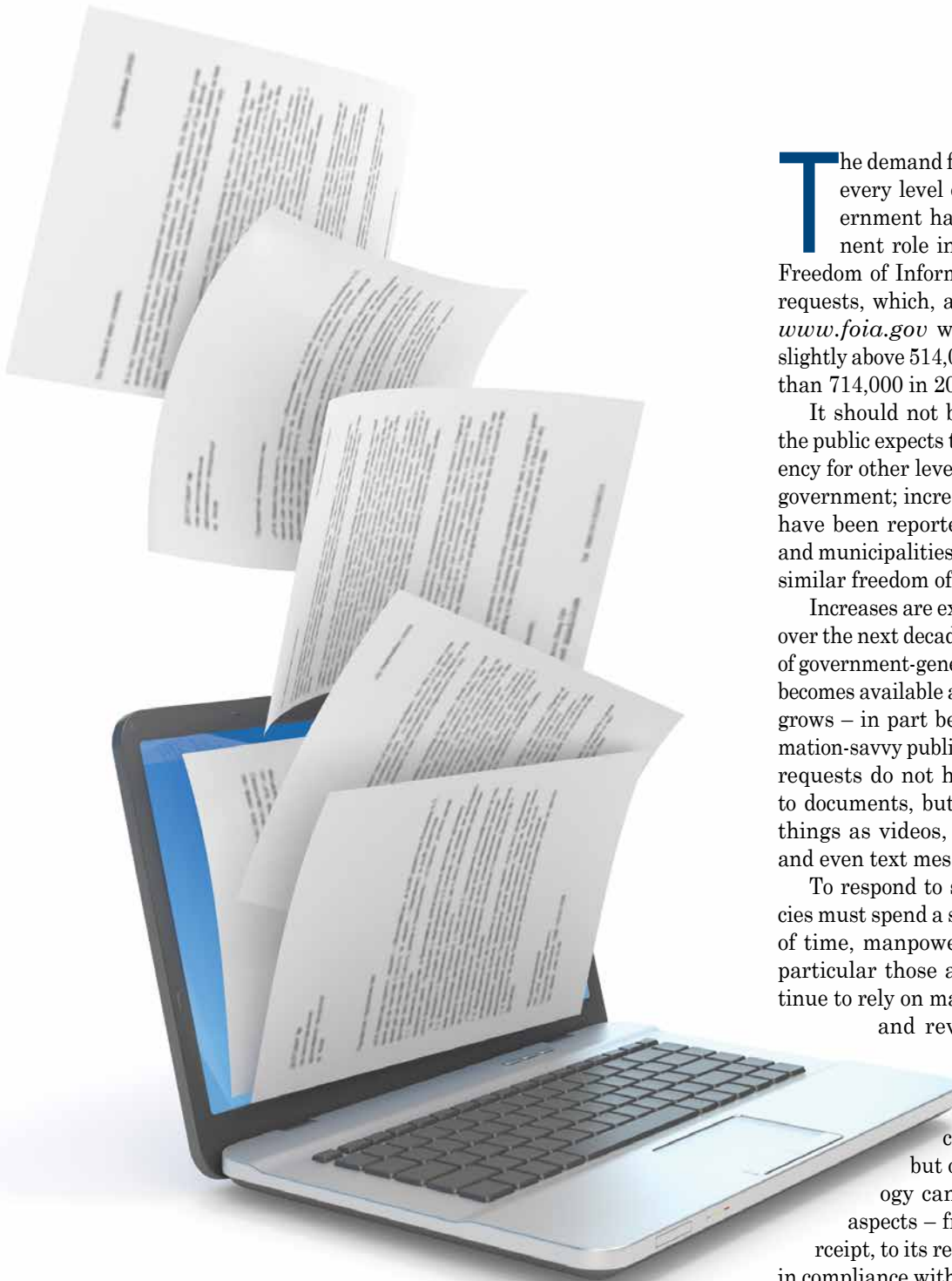


# The Role of Automation in **FOIA Compliance**

Cindy Dillow



**T**he demand for transparency at every level of the federal government has played a prominent role in the escalation of Freedom of Information Act (FOIA) requests, which, as reported on the *www.foia.gov* website, rose from slightly above 514,000 in 2009 to more than 714,000 in 2014.

It should not be surprising that the public expects the same transparency for other levels and branches of government; increases in filings also have been reported in those states and municipalities that have enacted similar freedom of information laws.

Increases are expected to continue over the next decade as large volumes of government-generated information becomes available and citizen demand grows – in part because of an information-savvy public that understands requests do not have to be limited to documents, but can include such things as videos, e-mail messages, and even text messages.

To respond to such filings, agencies must spend a significant amount of time, manpower, and money, in particular those agencies that continue to rely on manually processing and reviewing requests.

Implementing technology to automate processes is a solution, but only if the technology can handle all of its aspects – from FOIA request receipt, to its review and release – in compliance with all requirements.

Internal and security issues can cause IT installation to take as long as a year, which could mean that what was cutting-edge technology when it was purchased may be outdated – even obsolete – when put into use.

### **The Challenge of the FOIA Environment**

Federal agencies face unique challenges in responding to FOIA requests, especially those decentralized entities in which branches or offices have the autonomy to make their own decisions. Without technological standardization, various departments in the same agency may have different responses to a specific information request.

This challenge is magnified when the request is made to a massive government agency. The Department of Justice (DOJ), for example, is a decentralized agency that, according to its website, has 37 bureaus, divisions, offices, and boards collectively referred to as “components,” each of which maintains and processes its own records and, consequently, may have a unique FOIA response protocol and, therefore, provide different responses.

A FOIA request to the DOJ may need to be reviewed by any number of these components, and it may entail consultation between components or

redirection to another agency. These factors help explain why the DOJ’s 70,000 FOIA requests in 2013 required the services of more than 500 employees.

### **Technology to the Rescue**

FOIA or other information processing that doesn’t leverage the advanced capabilities of technology can be nearly unmanageable. For example, many agencies, particularly at the state or municipal levels, continue to use the old-fashioned approach for redacting information using tape or permanent markers to manually cover up a document’s text and images and then copy or scan the document to create the responsive record without redacted content. When an error is made or a change is required, the entire process must be repeated.

Organizations looking for advanced technologies that can resolve their problems must avoid the following common issues.

#### ***Single-Purpose Tools***

Some agencies have turned to technology to help them be more efficient, but many electronic tools are meant for a single, specific purpose, such as redaction. Most tools sold solely for the purpose of redaction do not offer a web-based solution and document repository for storing the original record or working versions for each level of review, and they don’t offer the security of a sanitized electronic record for distribution to the requester or for publishing. Some may lack effective security to ensure electronically placed redactions cannot be removed to expose the redacted content.

In some cases, an implemented single-purpose technology may not integrate with other aspects of the process. For example, a program that can search through e-mails may not integrate with a tracking program that electronically documents each step following receipt of a request,

so the improvement that program offers is severely limited.

Or, a tool may not be able to communicate well with the agency’s other technologies, or agencies may have incompatible electronic tracking and documentation, which further complicate and delay the FOIA response process.

#### ***Lengthy Adoption Process***

Agencies also can be hindered by their IT adoption process. Internal and security issues can cause IT installation to take as long as a year, which could mean that what was cutting-edge technology when it was purchased may be outdated – even obsolete – when put into use.

#### ***Outsourced IT***

Another obstacle for agencies can be outsourced IT, as vendor costs for adding new technology can be prohibitive, leaving budget-strapped entities to rely on an older system that is less adaptable to a changing information request environment.

#### ***Limited Portal Approach***

Several federal entities – including the U.S. Environmental Protection Agency, the Department of Commerce, and the U.S. Navy – have implemented a government-built web portal as a limited single point that enables people to use a template for entering and submitting a request.

While helpful, this portal approach also has its shortcomings. One is its limitation to a single, standard form for inputting a FOIA request; it does not allow for the submission of Privacy Act complaints or appeals.

Another limitation is that the electronically submitted requests must be manually input into another tracking system or log, and the response must be manually input back into the portal because the portal does not integrate with any existing commercial-off-the-shelf FOIA processing system. These manual entries increase the risk of errors and unnecessarily duplicate efforts for government agencies at all levels.

## Advantages of Integrated Systems

These are the very problems that end-to-end, automated technology has been developed to address. Take, for example, the redaction process and single-purpose tool mentioned above that lacks effective security to ensure electronically placed redactions cannot be removed to expose the redacted content. An electronic full-feature application offering pixel-to-pixel replacement will ensure that records are redacted securely.

The algorithms that direct an integrated and automated system are designed to process electronic entries from beginning to end. The process begins in a public-facing web portal where the request is initiated. Generally, users can easily submit and track the status of FOIA/Privacy Act requests and/or appeals through an auto-generated tracking number assigned to each request.

An automated system can generally auto-generate e-mails to requesters to acknowledge that the process is underway, offer them the ability to check the status of the request online, notify them when delivery is available, and enable them to download the final, sanitized, responsive documents directly via the portal.

Comprehensive integrated systems should address all aspects associated with FOIA receipt, review, release, and compliance. These include:

- *Integrated request tracking and correspondence.* The system should integrate with a variety of systems and contain an in-depth audit trail of user actions.
- *Redaction.* The system should have electronic redaction tools that allow for multiple review layers, review comparisons, and pixel-to-pixel replacement to securely sanitize responsive records.
- *Billing.* The tools should have the ability to track the cost of processing each request, provide

estimates, and provide invoices for payment.

- *Online payment capabilities.* The system should allow integration and connectivity to various payment vendors.
- *Reporting.* The system should include a report generator that can build custom reports and schedule them for automated distribution. It should include standard management reports such as DOJ Annual Report and Chief FOIA Officers Report.
- *Elimination of request duplication.* The system should check for duplicate requests based on multiple factors, including requester, requested documents, and other requested content.
- *Duplicate record detection.* The system should allow for automated document deduplication and review of responsive records. This can reduce document and e-mail reviews by a large percentage.
- *E-mail containment.* This is an especially important feature systems should have because of the rapidly growing number of requests for copies of e-mails and their attachments. Without it, manual processing of e-mails for some agencies could take years to complete.

As the FOIA process and the types of records being requested are evolving, technology is also evolving to meet this challenge; it is imperative that agencies subject to FOIA laws do the same.

## Evaluating FOIA Systems

Agencies will vary in the extent of their evaluation of the costs and benefits of adopting an integrated and automated system, but there are crucial considerations for every agency in its decision-making process. The system should:

- Eliminate the majority of labor-intensive work
- Be capable of being upgraded to

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meet the demands of an evolving information request environment and should be upgraded routinely

- Be able to be installed quickly enough to prevent the potential for its early obsolescence
- Meet scheduled and *ad hoc* FOIA reporting requirements
- Be able to handle multiple case types and integrate with a variety of document and records management systems
- Track discretionary releases for reporting purposes

A comprehensive, automated, end-to-end system should cover the gamut of the FOIA process to reduce manpower, time, and the risks of not fulfilling legal obligations. The growing number of agencies that have successfully adopted this type of technology can attest to how an integrated and automated solution speeds the process, ensures reporting compliance, and provides timely and compliant responses to requesters. **END**

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