



American Society of Access Professionals, Inc.

1444 I Street, NW
Suite 700
Washington, D.C. 20005-2210
Fed. ID # 54-115-2815

Tel: 202-712-9054
Fax: 202-216-9646
E-mail: asap@bostrom.com
Web site: www.accesspro.org

April 27, 2009

The Honorable John Berry
Director
United States Office of Personnel Management
Theodore Roosevelt Federal Building
1900 E Street, NW
Washington, D.C. 20415-0001

Dear Mr. Berry:

On behalf of the Board of Directors and membership of the American Society of Access Professionals (ASAP) I respectfully request that the Office of Personnel Management (OPM) reconsider the position set forth in its December 16, 2008 report submitted to Congress pursuant to section 11 of the OPEN Government Act of 2007 (Public Law 100-175, December 31, 2007). The positions and conclusions contained in the report and the accompanying letters to the President of the Senate and the Speaker of the House of Representatives fall short of meeting Congress' objectives in the 2007 legislation and are at odds with the administration's current emphasis on transparency and the Freedom of Information Act (FOIA). Our members will be directly affected by the positions set forth in OPM's December 16 report, which we believe fails to take into account the personnel changes that must be made in order to implement fully the intent of the OPEN Government Act and the President's commitment to transparency.

ASAP is an independent, educational, not-for-profit organization that since 1980 has been the primary professional organization bringing together government FOIA and privacy professionals with the requester community. To illustrate the scope of our organization, over 600 government FOIA and privacy professionals and representatives of the requester community attended ASAP's March 2009 national training conference.

Section 11 of the OPEN Government Act required OPM to submit a report to Congress addressing six specified issues related to personnel policies under the FOIA. Congress directed OPM to consider these issues as part of an overall emphasis on "how FOIA can be better implemented at the agency level." Toward that end, OPM was required to report to Congress on issues such as whether the stature of FOIA professionals should be enhanced, whether FOIA professionals at the highest levels should have a minimum rate of pay, whether there should be an employment classification series specific to agency personnel who handle FOIA issues, and other changes that would ensure a career advancement track for FOIA professionals.

Much to our disappointment, OPM refused to take a position on many of the six enumerated issues or to offer any recommendations for enhancing the role of FOIA professionals, leaving the matter instead to the discretion of individual agencies. For example, OPM responded to the issue of whether changes to executive branch personnel policy could enhance the stature of FOIA officials by stating “[t]hese issues are appropriately addressed through management direction and are within the control of individual agencies.” On the issue of whether an employment classification series specific to FOIA compliance should be established, OPM responded that “the FOIA community needs improved recruitment and selection practices, rather than new classification policy.”

OPM declined to recommend establishing a minimum rate of pay for Chief FOIA officers. Without question, OPM more than any other agency can appreciate that a function’s rate of pay and accompanying grade, whether under the general schedule or within the senior executive service, directly correlates to the seriousness with which the executive branch and individual agencies view that function.

By relegating to individual government agencies key personnel issues such as a FOIA employment classification series and enhancements to the stature of FOIA personnel, OPM abandoned its statutory mission to establish government-wide personnel policies and lost an important opportunity to establish policies that would both properly implement the President’s commitment to transparency and further principles clearly expressed by Congress in its passage of the OPEN Government Act.

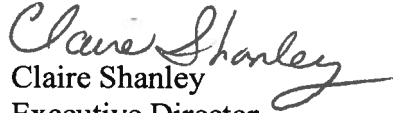
On his first full day in office, President Obama issued memoranda on the FOIA and transparency that called for all agencies to “renew their commitment to the principles embodied in the FOIA, and to usher in a new era of open Government,” and directed the attorney general (AG) to issue new guidelines governing the FOIA. The resulting March 19, 2009 AG memorandum states expressly that “FOIA is Everyone’s Responsibility” and recognizes the importance of government agency FOIA personnel “who directly interact with FOIA requesters and are responsible for the day-to-day implementation of the Act.” OPM’s report to Congress, however, would take the executive branch in an entirely different direction. By failing to address potential personnel policy changes critical to implementing the current emphasis on the FOIA and transparency and by too hastily transferring to individual government agencies the burden of developing FOIA personnel policy, OPM has fallen far short of the responsibilities assigned to it by Congress.

Accordingly, ASAP respectfully requests that OPM reconsider the issues Congress specified in the 2007 legislation and issue a new or amended report that more appropriately examines FOIA personnel policies in light of the administration’s enhanced commitment to transparency. The FOIA is one of the primary tools available to make that commitment a reality and the dedicated FOIA professionals who are tasked with implementing the FOIA deserve enhanced stature, higher compensation and a career enhancement track.

The Honorable John Berry
April 27, 2009
Page Three of Three

On behalf of ASAP, its membership and the FOIA communities, I thank you for your consideration. Should you wish to do so, the board or I are available to meet with you to discuss the matter in greater detail.

Sincerely,


Claire Shanley
Executive Director