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Obama's FOIA lag draws fire from left and right

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By [Dave Boyer](#) - The Washington Times

Tuesday, December 4, 2012

Lawmakers of both parties blasted President Obama on Tuesday for failing to live up to his promise of open government, after a report found that nearly two-thirds of his administration's agencies are failing to comply with a five-year-old law requiring bureaucrats to be more responsive to public requests for information.

A governmentwide audit makes clear that "the overwhelming majority of federal agencies are neither fulfilling the president's promise of an open and transparent government for the American people, nor complying with the vital reforms to the [Freedom of Information Act] process that Congress demanded," said Senate Judiciary Committee Chairman Patrick J. Leahy, Vermont Democrat, who helped to write those new laws.

Sen. John Cornyn, Texas Republican and co-author of the 2007 law, said Mr. Obama's pledge to make his administration "the most open and transparent in history" is falling far short of his goal.

"This report reveals how hollow that pledge was, and can be added to the long list of broken promises from his administration," Mr. Cornyn said.

A spokesman for the White House on government transparency issues didn't respond to a request for comment.

The Freedom of Information Act audit by the National Security Archive of George Washington University found that 62 of 99 government agencies haven't updated their FOIA regulations since Attorney General Eric H. Holder Jr. advised department heads in March 2009 to cut through red tape and release more documents sought by the public. Mr. Holder's own department is one of the backsliders on conforming with the law.

Fifty-six federal agencies have not updated their FOIA regulations since the passage in 2007 of the Open Government Act, which mandated reforming agencies' fees, instituting tracking numbers for requests and publishing specific data on their FOIA output. Among the agencies that have failed to update their FOIA regulations are the Justice Department, the State Department, the Central Intelligence Agency, the Council of Inspectors General on Integrity and Efficiency, the Office of Government Ethics and the Office of Special Counsel.

The oldest FOIA regulation belongs to the Federal Trade Commission, which has not been updated since 1975.

The FTC website's section titled "What's New with FOIA" lists a 2005 executive order by then-President George W. Bush, who left office in January 2009.

Nate Jones, FOIA coordinator at the National Security Archive, said Mr. Obama needs a "transparency bulldog" whose only job is "to track, cajole, and force federal agencies into complying with the law of the Freedom of Information Act and ensure that the president's commitments to openness are not ignored by the agencies he leads."

Late last year, an analysis done by the Scripps Howard Foundation showed that Mr. Obama's administration granted a smaller percentage of open-records requests in its first two years in office

than Mr. Bush's administration granted in its final three years.

Fifteen Cabinet-level departments under Mr. Obama granted 62.3 percent of open-records requests processed in 2010, and granted 61.7 percent in 2009. Under Mr. Bush, those departments granted 76.5 percent of requests in 2006, 76 percent in 2007 and 59.5 percent in 2008.

Government watchdogs say that in spite of Mr. Obama's promise, most federal agencies have a default position of preventing government records from being released. Exemptions to the 1966 federal FOIA law include information that is classified to protect national security, is confidential commercial or financial data or is an invasion of someone's privacy.

In September, Bloomberg News found that 19 of 20 Cabinet-level agencies disobeyed the law requiring the disclosure of the cost of travel by top Obama administration officials. Only eight of 57 federal agencies met Bloomberg's request for those documents within the 20-day window required by the law.

After Mr. Obama's first year in office, only 13 agencies could point to concrete changes to their FOIA practices, the National Security Archive audit found. Halfway through Mr. Obama's first term, only 49 agencies had taken concrete steps to improve their FOIA practices. NSA said the main problem is "the inability of Congress and the White House to find a way to compel recalcitrant agencies to comply with FOIA."

"Outdated agency regulations really mean there's an opportunity here for a second-term Obama to standardize best practices and bring all the agencies up to his Day One openness pledge," said Tom Blanton, director of the National Security Archive.
