



April 24, 2009

Adrienne C. Thomas
Acting Archivist of the United States
National Archives & Records Administration
Rm. 4200
8601 Adelphi Rd.
College Park, MD 20740-6001

RE: Response to Request for Input; Development of Alternative Models for Presidential Libraries

Dear Ms. Thomas:

I am writing in response to the National Archives and Records Administration's (NARA) recent request for input (RFI) into the development of alternative models for presidential libraries.

While OMB Watch appreciates NARA extending our deadline for comments, we would like to reiterate the point made by other groups that a comment period of 21 days is insufficient for such a matter of broad public interest. Further, the fact that NARA was willing to quietly extend the deadline for us and other organizations indicates that the deadline could have been extended to all interested parties. NARA did not produce the RFI until March 24, then waited nearly a full week to post the request on its website. The deadline for comments was less than three weeks thereafter. If given a more appropriate timeframe, the public and interested organizations could have had a greater ability to produce more substantive recommendations. President Obama's memorandum on Transparency & Open Government calls for greater agency actions toward creating participatory and collaborative government. We hope that NARA will work to increase such efforts in the future.

Systematic Versus FOIA

The historical value of records is determined by the public interest in their subject matter. Thus, any review of the records relating to former presidential administrations should defer to that interest. There are certainly times when records of significant historical importance are located in unexpected areas, but these are the exceptions rather than the rule. Requests under the Freedom of Information Act (FOIA) serve as a direct public input on how to prioritize the release of records. We are most concerned with NARA's consideration of systematic processing of presidential records, rather than deferring to the public interest under FOIA requests during the five year exemption period immediately following a president's term of office. A systematic review could create greater delays in access and is of little historical use if the records being reviewed are irrelevant to the public interest.

There are several other options for NARA to improve the FOIA-based review already in place that we think the agency should explore. For instance, other agencies utilize tracking systems for requests and

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public liaisons to expedite processing. In order to cut costs, NARA should utilize electronic means to disseminate released records to the public and thereby reduce the number of requests for the same document(s). As there are numerous federal agencies that handle large numbers of FOIA requests every year, we would recommend that NARA review the practices of those agencies to identify other, already proven improvements that could be brought to NARA's program.

If NARA were to pursue a systematic disclosure process, we would strongly recommend that the effort be carefully designed to avoid interference with ongoing FOIA requests. First, we would recommend that NARA limit the resources dedicated to such an approach to ensure that FOIA processing is not slowed because of a loss of time or personnel. Second, the methodology for prioritizing records for systematic disclosure should be publicly discussed. A useful guide to what type of records should be first in a systematic approach could be the FOIA requests that NARA has processed during past years. Previous requests could be reviewed to determine the information most frequently requested or those disclosures that provided the most useful information to the public. A systematic approach could work if NARA used FOIA to identify particular groups of documents that the public is interested in obtaining and give priority to their review.

A purely systematic approach that does not properly take into account the public interest is simply unacceptable. Archivists at the Reagan Library informed the Public Interest Declassification Board in 2007 that it would take 100 years at current resource levels before all Reagan White House documents will be *reviewed* for release. It is unfathomable that NARA would force documents critical to the public and historical interest to wait a century before being released.

Public Interest Declassification Board

Additionally, we strongly recommend that NARA review the recommendations made by the Public Interest Declassification Board's (PIDB) December 2007 report, *Improving Declassification*. While the PIDB report focuses on declassification decisions, it addresses specific issues concerning presidential record reviews that would be applicable to NARA's overall disclosure planning. Currently, the NARA RFI makes no reference to these recommendations, and therefore, it appears the agency is not considering them as options.

The PIDB made several recommendations concerning the identification of historically significant documents. Currently, historically significant documents are not identified. Rather, the government defines permanently valuable documents as those that constitute a record of agency activities. These recommendations include the establishment of a board of historians, academicians, and former government officials to identify historically significant records by identifying record series of interest. The methods by which historically significant records are identified can be established by statute or executive order.

In discussing the constraints on presidential libraries to process their materials, the PIDB identified two key problems: staffing levels and the fact that the libraries depend on departments and agencies whose approval they must obtain before they are able to release the materials of their respective presidencies. This, the PIDB noted, results in a system in which "the very materials that are apt to mean the most in terms of their historical significance are being bottled up by the system, often for decades on end."

To deal with these problems, the PIDB recommended the establishment of a National Declassification Center. The report concluded that centralizing the review effort to process presidential records would be paramount to making the processing of presidential records operate efficiently. The PIDB further recommended that if the decentralized system remains, then NARA “needs to consider means of augmenting the archival capabilities at Presidential libraries, e.g. by increasing their staffs, contracting out, granting security clearances to volunteers, to accelerate the archival processing of classified Presidential records.” The PIDB did not recommend that NARA reduce its services to the public, as seems to be the theme of the RFI. We ask that you keep the recommendations of the PIDB in mind while considering your options. The creation of a National Declassification Center may require statutory change or an executive order, and we believe that NARA would be acting in the public interest if it were to request such actions.

Please do not hesitate to contact me if you have questions.

Sincerely,

Roger Strother
Information Policy Analyst