



**2013 ANNUAL REPORT ON THE IMPLEMENTATION OF THE
FREEDOM OF INFORMATION ACT 2011**

SUBMITTED BY

BY

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PURSUANT TO
SECTION 29 OF THE FREEDOM OF INFORMATION ACT 2011

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1. BACKGROUND

The Freedom of Information Act 2011 (FOIA) came into force on the 28th day of May 2011. The Act makes access to public records and information more freely available to the public while also protecting certain public records and information in the public interest. It also in specified situations protects serving public officers from adverse consequences for disclosing official information without prior authorization.

Section 29(1) of the FOIA requires all public Institutions to submit to the Attorney-General of the Federation on or before 1st February of each year, a report containing among other details, the number of requests received by the institution; the number of determinations made by it; the number of appeals made by persons under the Act; the total amount of fees collected and the extent of manpower committed to the task of processing requests under the FOIA.

It is noteworthy that section 29(4) also requires the office of the Attorney-General of the Federation to forward the reports from all Public Institutions to the chairman and ranking minority member of the Committee on Government Reform Oversight of the House of Representatives and the Committees on Government Affairs and the Judiciary of the Senate. Section 29 (7) provides for this report to be made to the afore-stated officers of the National Assembly "on or before April 1 of each calendar year".

2. MEASURES TAKEN TO ENCOURAGE IMPLEMENTATION OF THE FOIA

The Federal Ministry of Justice undertook several measures to encourage public institutions to implement the FOIA. For example the office of the Attorney General of the Federation issued in 2013 a revised edition of Guidelines on the Implementation of the Act and incorporated therein templates for the preparation of Reports under section 29(5) in order to ensure that Reports are uniform and objective.

Furthermore the Federal Ministry of Justice in 2013 organized FOI Zonal Workshops and trainings in Ekiti, Asaba, Abuja, and Kaduna. An FOIA website www.justice.gov.ng was created and the following dedicated contact phone lines-08182429403, 08111004929, 08106577514 were acquired to enable the general public engage with the Ministry on matters related to the implementation of the FOIA. The Ministry is grateful to the Democratic Governance for Development Project of the United Nations Development Programme (UNDP) and its cooperating partners namely the European Union, Canadian International development Agency and the United Kingdom for supporting some of these initiatives.

The Federal Ministry of Justice also in 2013 encouraged Public Institutions to set up FOIA Units and to forward to the Ministry, details of dedicated FOIA phone and email contacts. It is gratifying that the

degree of positive responses to these initiatives is satisfactory although a lot of work is still required to attain optimal levels.

It is also noteworthy that an increasing number of Public Institutions are becoming sensitive to the proactive disclosure requirements under the FOIA. These institutions have also deployed robust websites with dynamic FOIA portals.

In compliance with Section 13 of the Act, the Federal Ministry of Justice held series of sensitization workshops for different categories of its staff at the Headquarters and its Nine (9) Parastatals. The Ministry intends in 2014, subject to availability of funds to extend this training to its zonal offices, and embark on its proposed quarterly interface with FOI desk officers in Public Institutions.

A major training intervention in 2013 was the five week workshop held for Public Institutions which was spread over two months at the Ministry's auditorium. Staff from more than 100 public institutions benefitted from the training.

The Ministry also collaborated with several Civil Society Organizations (CSOs) on training and technical aspects of the Act. It is noteworthy that the bulk of FOIA requests since 2011 have invariably originated from these organizations that by dint of such requests have kept public institutions on their toes and also enhanced understanding of

the practical aspects of the FOIA. The FOI Unit of the Ministry of Justice also participated sometimes as resource persons in some of the workshops and seminars organized by CSOs.

In my humble view the foregoing underscores the fact that though the Act is relatively novel, public perception of it and its application are gradually taking root and will ultimately stand our country in good stead.

3. CHALLENGES ENCOUNTERED IN THE IMPLEMENTATION OF THE FOIA

As is the case with all novel laws, there are formidable challenges of implementation. The FOIA was not passed until after a period of 17 years after it was first mooted. Unfortunately during the period of advocacy for the passage of the law, very little was done to garner public support and sensitise all operators of the Act on their expected roles in the era after enactment.

There is therefore need for concerted effort by all tiers of Government to ensure that public officers shrug off a culture of secrecy and embrace the values of transparency and openness embedded in the Act. Each tier must complement the other and aim towards uniform implementation of the Act. It is therefore a matter of concern that in spite of reminders on the issue, public institutions under the legislative and judicial branches of Government

have not since 2012 submitted any report on the implementation of FOIA to the Office of the Honourable Attorney-General of the Federation.

Several challenges have been encountered in the course of implementing the FOIA some of which are highlighted below:

- a) There is generally a lack of funding for FOI activities across Government Departments.
- b) There is general apathy amongst those that should operate the Act. This is worsened by a high level of ignorance about the provisions of the Act and the nature of obligations thereunder. There is therefore need for intense and continuous sensitization of Government officials.
- c) Public Institutions invariably respond to requests well beyond the seven days required by the Act primarily because they lack necessary structures and framework for implementing the Act. Most public Institutions opt for the setting up of committees rather than set up FOIA units which will require a separate budgetary vote. However committees cannot respond timeously to requests.
- d) There is also the challenge of bottlenecks in some Public Institutions. FOI letters go from one officer to another before finally getting to the desk officers usually by the 7th day. In some Public Institutions top management is

suspicious of the Act and consequently do not cooperate with its implementation. There is need to popularize the moral of Mr. President's statement to the effect that – *“The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed or because of speculative or abstract fears”*.

- e) The Office of the Attorney-General of the Federation is entrusted with oversight of the FOIA. The Office should therefore be empowered to draw up, harmonise and conduct categories of trainings for Chief Executive Officers of all Public Institutions as well as FOI desk officers on a periodic basis.
- f) The recurring decimal in access to information is good record keeping and management. Unless and until Government takes concrete steps towards good records management, the success of the FOIA will be in great jeopardy.

4. SCHEDULE OF REPORTS RECEIVED FROM PUBLIC INSTITUTIONS FOR 2013

For the year 2013, the office of the Honourable Attorney General of the Federation received reports from an aggregate of 51 Public institutions. This figure includes reports **for the 2012 period** from 11

public institutions that were unable to submit reports before February 2013. The Distribution and analyses of the Reports are as follows:

- a) Public Institutions that submitted their reports **on or before 1st February 2014** = 40 (Appendix A);
- b) The Public Institutions **that made nil submissions.**= 15 (Appendix B). It was discovered that that some Public Institutions do not submit reports to the Office of the Honourable Attorney-General of the Federation because they received no FOI requests. The Federal Ministry of Justice has impressed upon all Public Institutions to submit reports to the office of the Honourable Attorney-General of the Federation whether or not they receive requests;
- c) Public Institutions that **processed requests/applications**= 25 (Appendix C);
- d) Public Institutions that submitted reports for 2012 later than 1st February 2013 = 11 (Appendix D).

The Act in Section 29(1) requires that reports be **submitted on or before 1st February each year**". This year as is the case every year, we had submissions that came in after the stipulated time. These reports are not reflected in this report to the National Assembly but will be reflected in the 2014 report.

5. CONCLUSION

In conclusion, the Office of the Attorney-General of the Federation processed reports from 16 Public Institutions for the year 2011, 32 reports for the year 2012 and 51 for year 2013.

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