



FEDERAL HOUSING FINANCE AGENCY 2016 CHIEF FOIA OFFICER REPORT

March 2016



Freedom of Information Act Office

INTRODUCTION

The Federal Housing Finance Agency (FHFA) was created on July 30, 2008, with the signing of the Housing and Economic Recovery Act of 2008 (Act). FHFA is an independent regulatory agency responsible for the oversight of vital components of the secondary mortgage markets — Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (collectively the “Housing Government-sponsored Enterprises”). Combined these entities provide more than \$5.5 trillion in funding for the U.S. mortgage markets and financial institutions. Additionally, FHFA is the conservator of Fannie Mae and Freddie Mac.

FHFA’s mission is to ensure the Housing Government-sponsored Enterprises operate in a safe and sound manner so they serve as a reliable source of liquidity and funding for housing finance and community investment.

Through its Freedom of Information Act (FOIA) Program, FHFA strives to achieve the principles set forth by the President and Attorney General by:

- Administering the FOIA with a clear presumption in favor of disclosure, remove doubts in favor of openness, and not withhold information based on speculative or abstract fears; and
- Ensuring that requests are responded to in “a spirit of cooperation,” that disclosures are timely, and that modern technology is used to make information available to the public even before a request is made.

FHFA is committed to providing access to Agency records through a citizen-centered and results-oriented FOIA program. FHFA’s FOIA Office, which is comprised of the Chief FOIA Officer, FOIA Officer and FOIA Liaison, continually reviews ways to improve the efficiency, effectiveness, and transparency of FHFA’s FOIA program. This year’s report includes information about the FOIA Program in FHFA’s Office of Inspector General. Where information is specific to the Office of Inspector General, it has been so noted in the report.



Name and Title of Agency Chief FOIA Officer:

*David A. Lee
Managing Associate General Counsel
Chief Freedom of Information Act Officer*

Reporting Period: March 2015 to March 2016

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness. Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

FOIA Training:

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100%

3. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

Not applicable.

Discretionary Disclosures:

4. Does your agency have a distinct process or system in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have such a process or system in place?



Yes. For FHFA, the process begins with the FOIA Officer determining that records may be eligible for discretionary release. Determinations are then made between the record owner, FOIA Officer, and Chief FOIA Officer about whether a discretionary release may be made.

Similar to FHFA's process, in the Office of Inspector General, records are reviewed by a FOIA officer first for responsiveness. If this initial review demonstrates that responsive materials exist for which a discretionary release may be appropriate, the FOIA officer confers with counsel as to whether such a release should be made.

5. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

Yes. FHFA made discretionary releases, while the Office of Inspector General did not.

6. What exemptions would have covered the information that was released as a matter of discretion?

Exemptions 2 and 5 covered information that was released as a matter of discretion.

7. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

- *Inter-agency emails*
- *Calendar entries of the Director*
- *Internal memos*
- *Internal employee guidance*
- *Internal employee training material*
- *Draft regulations*
- *Draft supplement regulations*
- *Staff notes*

8. If your agency was not able to make any discretionary releases of information, please explain why.

The Office of Inspector General did not make any discretionary releases during the reporting period because the information being requested fell under the deliberative process privilege (exemption 5) due to the FOIA requests seeking documents associated with various audit reports. The Office of Inspector General protected information under b(5) to prevent injury to the quality of agency decisions by facilitating open and frank discussions on matters of policy between subordinates and superiors and protect against public confusion that might result from disclosure of reasons and rationales that



were not in fact ultimately the grounds for an agency's action. Furthermore, during the audit report process, documents that the Office of Inspector General may have obtained from Fannie Mae or Freddie Mac contain information that was withheld under exemptions 4 and/or 6. In addition, a majority of the FOIA requests the Office of Inspector General received were for records regarding investigative Hotline complaint files that contain information exempt from disclosure under exemptions 7A and 7C.

Other Initiatives:

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

FHFA has taken the following steps to ensure that the presumption of openness is being applied.

- *Reviewing requested records with the objective of identifying records that may be released in advance of determining applicable exemptions;*
- *Increasing the number of partial disclosures when full disclosure is not possible by segregating and releasing non-exempt information;*
- *Working with requesters to refine or narrow requests to better understand what the requester seeks and whether any responsive records can be located and released;*
- *Applying the foreseeable harm standard to information that could be properly withheld under Exemptions 2 and 5; and*
- *Proactively posting information on FHFA's website when multiple FOIA requests are made for the same information so that the information is readily available to the public.*

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

The Attorney General's 2009 FOIA Guidelines emphasized that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient.

Processing Procedures:

1. For Fiscal Year 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing?



The average number of days to respond to requests for expedited processing was 2.5 days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not applicable.

3. On July 2, 2015, OIP issued new guidelines to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty work days to respond.

FHFA did not send any "still interested" inquiries.

Requester Services:

4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.

- If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that that here.

There has been no need to strengthen the services provided by the FOIA Requester Service Center or the FOIA Public Liaison as there has been no demand by requestor for these services.

5. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc. please describe them here.



FHFA is taking or has taken the following steps to ensure that the system for responding to FOIA requests is effective and efficient while safeguarding sensitive and confidential records in accordance with Federal laws and regulations:

- *Providing requesters with a more detailed explanation of how each search was conducted and, if applicable, why the Agency does not have responsive records, and why a particular exemption was cited when withholding documents;*
- *Maintaining more complete data on each request to facilitate easier reporting, analysis and monitoring of the number of denials, partial disclosures, and full disclosures and the types of information disclosed;*
- *Developed correspondence templates to ensure that requesters receive confirmation of receipt of their request and responses to their requests in an expeditious manner;*
- *Assigning individual tracking numbers to each request to make it easier for requesters to inquire about their request;*
- *Using multi-track processing in order to respond more rapidly to simple requests on a separate track from complex requests;*
- *Updated the Agency's public website to include updating: 1) the FOIA Reference Guide; 2) Frequently Asked Questions page; and 3) providing links to the Department of Justice's FOIA page;*
- *Providing IT support to the FOIA program to improve efficiency in searching for responsive electronic records;*
- *Maintaining dedicated FOIA telephone line and email account specifically to communicate with requesters;*
- *Continuing to developing standard internal protocols for searches, use of exemptions, and processing and authorizing responses, disclosures and denials;*
- *Developed training and educational materials for Agency staff to understand roles and responsibilities under FOIA; and*
- *Assessing ways to improve the responsiveness and efficiency of its processes for responding to requests.*

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received. Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does



your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.

FHFA's FOIA Office regularly reviews its FOIA logs to determine whether multiple requests have been made for the same records and, to the extent there are multiple requests for the same records, the FOIA Office works with program offices and the Open Government team to identify records and data that can be made publicly available.

The Office of Inspector General, through its commercial-off-the-shelf FOIA software system, is able to identify frequently requested records and through this the Office of Inspector General is able to proactively post monthly interim responses and documents on the Office of Inspector General's website under the Electronic Reading Room.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.

Yes. The FHFA FOIA Office works closely with program offices, and the Open Government and the Information and Technology teams to determine whether any FHFA records can be disclosed prior to receiving a FOIA request.

3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

All coding for Section 508 compliance is conducted by information technology personnel or personnel with responsibility for oversight of FHFA's public website.

For Office of Inspector General records, a commercial off the shelf software converts documents to be section 508 compliant and such records are posted to the Office of Inspector General's website under the Electronic Reading Room.

4. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

No.

5. If so, please briefly explain those challenges.

Not applicable.

6. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.



Some examples, while not all inclusive, include the following:

- *Press Releases*
- *Monthly interest rate survey data*
- *Regulations, notices, and public comments*
- *Capital disclosures*
- *Letters to Congress*
- *Federal Home Loan Bank Membership data*
- *Supervision handbooks and guidance*
- *Research papers*
- *Advisory Bulletins*
- *Final Opinions and Orders*
- *Policy and Administrative Staff Manuals*
- *Frequently Requested Records*
- *Annual Performance Plans*
- *FHFA Strategic Plans*
- *Performance and Accountability Reports*
- *Advisory Council Reports*
- *Resources for Consumers*
- *Regulatory Interpretations*
- *Collateral Securing Advances Reports*
- *Quarterly Conservator's Reports*
- *Federal Property Managers Reports*
- *Foreclosure Prevention Reports*
- *Enterprise Guarantee Fees Reports*
- *Annual Housing Reports*
- *Scorecard for Fannie Mae, Freddie Mac and Common Securitization Solutions*
- *Office of Minority and Women Inclusion Annual Reports to Congress*
- *Federal Home Loan Bank Securitization Reports*
- *Refinance Reports*
- *Sustainability Plans*
- *Strategic Plans for the Conservatorships of Fannie Mae and Freddie Mac*
- *Public Use Databases for Fannie Mae and Freddie Mac*
- *Public Use Databases for the Federal Home Loan Banks*
- *Staff Working Papers*
- *Low Income Housing and Community Development Activities of the Federal Home Loan Banks*
- *No-Fear Act Data*
- *Report on Collateral Pledged to Federal Home Loan Banks*
- *Mortgage Market Notes*
- *U.S. House Price Index Report*
- *Executive Compensation Information*
- *Court Documents*



This information can be found at www.fhfa.gov and [http://fhfaOffice of Inspector General.gov/FOIA/ReadingRoom](http://fhfaOfficeofInspectorGeneral.gov/FOIA/ReadingRoom). Reports can be found here: <http://www.fhfa.gov/AboutUs/reportsplans>.

7. Does your agency use any means to publicize or highlight important proactive disclosures for public awareness. If yes, please describe those efforts.

Yes. FHFA's website is designed to allow individuals to sign up for email alerts when new material is uploaded to the website. FHFA also uses social media (i.e. Twitter and LinkedIn) and image slider/carousel on FHFA.gov home page to publicize or highlight important information for the public.

Other Initiatives:

8. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

Not applicable.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that describes your agency's efforts in this area.

Making Material Posted Online More Useful:

1. Beyond posting new material, is your agency taking steps to make the posted information more useable to the public, especially to the community of individuals who regularly access your agency's website.

Yes.

2. If yes, please provide examples of such improvements.

FHFA completely revised its public facing website to make it more user-friendly as well as easier to locate/search for information about FHFA.



Other Initiatives:

3. Did you agency successfully post all four quarterly reports for Fiscal Year 2015?

Yes.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2016.

Not applicable.

5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?

Yes. FHFA uses email as well as an electronic FOIA tracking system to communicate with requesters about their requests.

6. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such information?

Not applicable.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

Simple Track: Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

1. Does your agency utilize a separate track for simple requests?

Yes.



2. If so, for your agency overall in Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

Yes. The average number of days was 12.35 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.

85.09%

4. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Not applicable.

Backlogs: Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Backlogged Requests:

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with Fiscal Year 2014?

No.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests
- A loss of staff
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

The reasons for the backlog relate to the number of FOIA requests received in the Office of Inspector General. The number of FOIA requests increased 2 fold, and the complexity of all requests (in terms of time periods, numbers of documents and pages) increased exponentially. Many of the Complex Track requests increased in complexity due to



requesters seeking a large universe of documents and not wanting to narrow the scope of the request, despite explaining that the scope of the request was overbroad and would therefore take many months to complete. Furthermore, Office of Inspector General has only one staff member who processes the FOIA in addition to other job duties.

7. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests *received* by your agency in Fiscal Year 2015.

The percentage of requests that make up the backlog is 7.1%.

Backlogged Appeals:

8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014.

FHFA did not have a backlog of appeals at the end of Fiscal Year 2015.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce the backlog. When doing so, please indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals
- A loss of staff
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Not applicable.

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals *received* by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer with “N/A.”

Not applicable.

Status of Ten Oldest Requests, Appeals, and Consultations

Section VII.E entitled “Pending Requests – Ten Oldest Pending Requests,” Section VI.C. (5), entitled “Ten Oldest Pending Administrative Appeals,” and Section XII.C., entitled “Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency,” show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2014



and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

Ten Oldest Requests

11. In Fiscal Year 2015, did your agency close the ten oldest requests received by your agency and pending as of the end of Fiscal Year 2014?

Yes

12. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Not applicable.

13. Of the requests your agency was able to close from your ten oldest, please indicate how many of those were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

None.

Ten Oldest Appeals

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Yes.

15. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Not applicable.

Ten Oldest Consultations

16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?

Not applicable.

17. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section VII.C. of your Fiscal Year 2014 Annual



FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Not applicable.

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

18. Briefly explain any obstacles your agency faced in closing the ten oldest requests, appeals, and consultations from Fiscal Year 2014.

Not applicable.

19. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Not applicable.

20. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2015.

Not applicable

Use of FOIA’s Law Enforcement “Exclusions”

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c) (1), (2), (3) during Fiscal Year 2015?

No.

2. If so, please provide the total number of times exclusions were invoked.

Not applicable.

