



# Federal Housing Finance Agency

## FEDERAL HOUSING FINANCE AGENCY 2014 CHIEF FOIA OFFICER REPORT MARCH 10, 2014

### Preface

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). The Act empowered FHFA with all the authorities necessary to oversee and regulate vital components of the nation's secondary mortgage market – Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.

FHFA's mission is to ensure that the housing GSE's operate in a safe and sound manner so that 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. Specifically, the President directed agencies to:

- Administer 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
- Ensure 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. To facilitate this access, FHFA adopted the plain language question and answer format for its FOIA regulation which is typically preferred by the general public. The 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.

#### *Name and Title of Agency Chief FOIA Officer:*

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

*Reporting Period: March 2013 to March 2014*

## 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.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

### *FOIA Training:*

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period? *Yes.*
2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance. *New employee training was conducted 26 times (every two weeks). The topics included an overview of the FOIA, as well as responsibilities regarding maintaining records and searching for and responding to FOIA requests as necessary. The estimated number of attendees was 50.*
3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice? *Yes.*
4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period. *100%.*
5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year. *FHFA currently expects all agency FOIA professionals to attend substantive FOIA training every year. Provisions are made to ensure that all FOIA professionals receive this training and that plan will continue.*

### *Outreach:*

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement. *No.*

### *Discretionary Disclosures:*

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

7. Does your agency have a formal process 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 a process in place for making discretionary releases. *Yes. The process begins with the FOIA Officer determining that records may be eligible for discretionary releases. Determinations are then made between the record owner, FOIA Officer and Chief FOIA Officer on whether a discretionary release should be made.*
8. During the reporting period did your agency make any discretionary releases of otherwise exempt information? *No.*
9. What exemptions would have covered the information that was released as a matter of discretion? *Not applicable.*
10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion. *Not applicable.*
11. If your agency was not able to make any discretionary releases of information, please explain why. *FHFA did not have any records that could be released as a matter of discretion.*

*Other Initiatives:*

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014. *Yes.*  
<http://www.fhfa.gov/Default.aspx?Page=49>.
13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description. *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 so as 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**

As the Attorney General emphasized in his FOIA Guidelines, "[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.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

*Personnel:*

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series? *Yes.*
2. If not, what proportion of personnel has been converted to the new job series? *Not applicable.*
3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted? *Not applicable.*

*Processing Procedures:*

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less. *Yes. The average number of days to respond was 1.5.*
5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps. *No. FHFA has not taken any steps as we normally only receive one or two referrals or consultations per year.*

*Requester Services:*

6. Do you use e-mail or other electronic means to communicate with requesters when feasible? *Yes.*
7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA? *Yes.*
8. Describe 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. *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.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

*Posting Material:*

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures? *Yes.*
2. If so, describe the system that is in place. *The system includes regularly reviewing requests to determine where multiple requests have been made for the same information and working with program offices and the Open Government team to identify records and data that can be made publicly available.*

Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online. *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*
- *Agency 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*
- *Office of Minority and Women Inclusion Annual Report to Congress*
- *Federal Home Loan Bank Securitization Reports*
- *Refinance Reports*
- *Sustainability Plans*
- *Public Use Databases for Fannie Mae and Freddie Mac*
- *Public Use Databases for the Federal Home Loan Banks*
- *Staff Working Papers*
- *Mortgage Market Notes*
- *Housing Price Index data*
- *Executive Compensation Information*



This information can be found at [www.fhfa.gov](http://www.fhfa.gov). Reports can be found here:  
<http://www.fhfa.gov/Default.aspx?Page=39>.

*Making Posted Material More Useful:*

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.? *Yes.*
5. If so, provide examples of such improvements. *FHFA continues to redesign and update its external website. The new website is expected to be released in fiscal year 2014. The primary goal of the FHFA.gov project is to present information in a customer-centric manner increasing usability and understanding of FHFA, its mission, work and results. This will be achieved by using the latest technologies and updating document metadata to increase search capabilities, internal and external key stakeholder feedback research to understand content priorities, employing best website practices, adding analytics tools, and making the site viewable on a variety of browsers and devices. Furthermore, the site design and accompanying documents will be analyzed by a 508 compliance expert for accessibility.*
6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? *Yes.* If so, was social media utilized? *FHFA is in the process of drafting agency policy and procedures on social media use which will include means to publicize or highlight disclosures of information.*
7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? *No.* If so, please briefly explain what those challenges are. *Not applicable.*
8. Describe any other steps taken to increase proactive disclosures at your agency. *The FOIA Office has worked closely with various program offices to identify documents that can be made publicly available and to ensure that these records are posted and made available in a timely fashion.*

#### **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. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

*Online tracking of FOIA requests:*

1. Can a FOIA requester track the status of his/her request electronically? *Yes.*
2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums? *Online portal.*

Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system. *The information provided to the requester through the tracking system is as follows:*

- *Received date*
  - *Assigned*
  - *Perfected*
  - *On hold for information/clarification*
  - *Request for documents sent*
  - *Closed*
  - *Fees due*
3. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request? *No.*
  4. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why. *Not applicable.*

*Use of technology to facilitate processing of requests:*

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? *Yes.*
7. If so, describe the technological improvements being made. *The FOIA Office continues to work with the Offices of General Counsel and Technology and Information Management in implementing an electronic search tool to search for electronic versions of agency records.*
8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program? *No.*

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section 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. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.*

*Simple Track Requests:*

1. 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.
  - a. Does your agency utilize a separate track for simple requests? *Yes.*
  - b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer? *Yes. The average number of days was 15.4 days.*
  - c. 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 and "Ten Oldest" Requests, Appeals and Consultations:*

2. 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. 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012? *No.*
- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012? *FHFA did not have any backlogged appeals at the end of either Fiscal Year 2012 or Fiscal Year 2013.*

Ten Oldest Requests

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012? *Yes.*
- d. 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 2012

Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests. *Not applicable.*

Ten Oldest Appeals

- e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012? *Yes.*
- f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report. *Not applicable.*

Ten Oldest Consultations

- g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012? *Not applicable.*
- h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report. *Not applicable.*

*Reasons for Any Backlogs:*

- 3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals? *No.*
- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff? *No.*
- c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received? *Yes.*
- d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog? *The complexity and volume of documents responsive to these requests was quite extensive. In a number of instances the volume of documents located in response to individual FOIA requests exceeded 5,000 pages with several over 10,000 pages.*

"Ten oldest" Not Closed

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012. *Not applicable.*

- f. If your agency was unable to close any of its ten oldest requests or appeals 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.*

*Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:*

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014. *Not applicable.*
5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead. *Not applicable.*

*Interim Responses:*

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate? *Yes.*
7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed. *None.*

**Use of FOIA’s Law Enforcement “Exclusions”**

In order to increase transparency regarding the use of the FOIA’s statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to “treat the records as not subject to the requirements of [the FOIA],” 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013? *No.*
2. If so, what was the total number of times exclusions were invoked? *Not applicable.*

**Spotlight on Success**

Out of all the activities undertaken by your agency since March 2013 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you

would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report. *FHFA worked with the Division of Supervision and Policy Support to update and increase postings to the website of advisory bulletins and FHFA's Examination Modules. This was a significant undertaking as it required removing outdated and superseded bulletins from FHFA's predecessor agencies, updating and posting new advisory bulletins in a location that would be easily accessible by the public. As for the Examination, this was a new undertaking that posted FHFA's manual on how it examines the Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.*