



FEDERAL HOUSING FINANCE AGENCY 2017 CHIEF FOIA OFFICER REPORT

March 2017



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. FHFA is an independent regulatory agency responsible for the oversight of vital components of the secondary mortgage markets – the housing government sponsored enterprises Fannie Mae, Freddie Mac and the Federal Home Loan Banks. Combined these entities provide more than \$5.8 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 following principles:

- 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 (FHFA-HQ), continually reviews ways to improve the efficiency, effectiveness, and transparency of FHFA’s FOIA program. Like last year, this year’s report includes information about the FHFA’s Office of Inspector General (FHFA-OIG) FOIA program. Where information is specific to FHFA-OIG, 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 2016 to March 2017

Section 1: Steps Taken to Apply 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.

A. 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. If yes, please provide a brief description of the type of training attended and the topics covered.

- *FOIA Improvement Act 2016*
- *FOIA Public Liaison/ FOIA Requester Service Center*
- *The Freedom of Information Act for Attorneys and Access Professionals*

3. 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%*

4. 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. See question 3.*



B. Other Initiatives

5. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA?

- *Each office within FHFA-HQ has designated a staff member to be a liaison between the office and the FOIA Office to assist in responding to FOIA requests. Each liaison received refresher training on their duties and responsibilities as the liaison between their office and the FHFA-HQ FOIA Office. In particular, the training focused on their role in identifying individuals who might have responsive records and ensuring that thorough and adequate searches of records were conducted.*
- *The FHFA-OIG provided guidance to non-FOIA professionals in OIG on an as-needed basis.*

6. 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 determine 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 for the same information are received.*

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

The DOJ'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 the management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

A. *Processing Procedures*

1. For Fiscal Year 2016, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2016 Annual FOIA Report.

- *Agency Overall average – 1.71 days*
 - *FHFA-HQ – 1.25 days*
 - *FHFA-OIG – 2.33 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. See question 1.*

3. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

- *FHFA-HQ – 23 requests*
- *FHFA-OIG – 2 requests*

B. *Requester Services*

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison.

- *FHFA-HQ's Public Liaison received no requests for assistance.*
- *FHFA-OIG's Public Liaison received more than 20 requests for assistance.*

5. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.



- *FHFA-HQ* - <https://www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/FOIA-Reference-Guide.aspx>.
- *FHFA-OIG* - <https://fhfaoig.gov/FOIA>.

C. Other Initiatives

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

- *Not applicable.*

Section III: Steps Taken to Increase Proactive Disclosures

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.

A. Posting Material

1. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

- *FHFA-HQ regularly reviews its FOIA log to determine if there are multiple requests for the same records. In those instances where there are multiple requests, FHFA identifies them as "frequently requested" and makes a determination to post to the FOIA reading room.*
- *FHFA-OIG uses a commercial-off-the-shelf FOIA software system that facilitates the identification of frequently requested records. Requests are monitored to determine whether they seek similar records. When records are identified as being requested frequently, OIG posts such records on its website in 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. For FHFA-HQ, the process begins with the FOIA Officer determining that records may be eligible for release. Determinations are then made between the record owner, FOIA Officer, and Chief FOIA Officer about whether a release under the foreseeable harm standard 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 release may be appropriate, the FOIA officer confers with legal counsel as to whether such a release should be made under the foreseeable harm standard.

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

- *No.*

4. If so, briefly explain those challenges and how your agency is working to overcome them.

- *Not applicable.*

5. 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*
- *Regulations, notices, and public comments*
- *Capital disclosures*
- *Letters to Congress*
- *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*
- *FHFA Examination Manual*
- *Foreclosure Prevention Reports*
- *Dodd-Frank Act Tests*



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- *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*
- *Suspended Counterparty Program Notices*
- *Sustainability Plans*
- *Strategic Plans for the Conservatorships of Fannie Mae and Freddie Mac*
- *Various Data Sets*
 - *Public Use Databases for Fannie Mae and Freddie Mac*
 - *Public Use Databases for the Federal Home Loan Banks*
 - *Conforming Loan Limits*
 - *Countercyclical Stress Paths*
 - *Current Market Data*
 - *Duty to Serve Rural Areas Data*
 - *Federal Home Loan Bank Member Data*
 - *U.S. House Price Index Report*
 - *Monthly interest rate survey data*
 - *Underserved Areas Data*
- *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*
- *Executive Compensation Information*
- *Court Documents*
- *Testimony*
- *FHFA-OIG Semi-Annual Reports to Congress*
- *FHFA-OIG Audits and Evaluations*
- *FHFA-OIG Audit and Evaluation Plan*
- *FHFA-OIG Strategic Plan*
- *FHFA-OIG Management Alerts and & Other Action Items*
- *FHFA-OIG Compliance Reviews*
- *FHFA-OIG Compendium of Recommendations*

This information can be found at
<https://www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/Reading-Room.aspx> and
<https://fhfaoig.gov/FOIA/ReadingRoom>. Reports can be found here:
<http://www.fhfa.gov/AboutUs/reportsplans> and <https://www.fhfaoig.gov/Reports>.



6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe these efforts.

- *No.*

B. Other Initiatives

7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

- *No.*

SECTION IV: Steps Taken to Greater Utilize Technology

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 that describes your agency's efforts in this area.

A. Making Material Posted Online More Useful

1. 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?

- *Yes.*

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

- *FHFA-HQ revised its public facing website to make it more user-friendly as well as easier to locate/search for information about FHFA.*
- *FHFA-OIG revised its FOIA webpage with more user-friendly information to help requesters understand the FOIA process.*

B. Other Initiatives

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

- *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 2017.

- *Not applicable.*

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

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 the numbers contained in the specified sections of your agency's 2016 Annual FOIA Report and, when applicable, your agency's 2015 Annual FOIA Report.

A. *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 2016, was the average number of days to process simple requests twenty working days or fewer?

Yes. The average number of days to process simple requests is as follows:

- *Agency average – 8.48 days*
 - *FHFA-HQ – 9.41 days.*
 - *FHFA-OIG – 7.83 days.*

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

- *Agency percentage – 80.77%*
 - *FHFA-HQ – 65%.*



- *FHFA-OIG – 93%.*

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

- *Not applicable.*

C. 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 2015 and Fiscal Year 2016 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 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.

The agency's overall backlog remained the same from 2015 to 2016. However, FHFA-HQ reduced its backlog while FHFA-OIG's backlog increased.

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.
- *FHFA-HQ – Not applicable.*
 - *FHFA-OIG – The reasons for the backlog relate to the number of FOIA requests received by OIG. The number of FOIA requests increased, and the complexity of all requests (in terms of time periods covered by the request and the number 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 narrowing the scope of their request, despite explaining that the scope of the request was overly broad and could*



therefore take many months to complete. Furthermore, FHFA-OIG has only one staff member who processes FOIA requests 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 2016.

- *Agency percentage – 6.7%*
 - *FHFA-HQ – Not applicable.*
 - *FHFA-OIG – 11.5%.*

Backlogged Appeals

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog.

- *Not applicable.*

9. 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 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 2016. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A."

- *Not applicable.*

C. 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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

Ten Oldest Requests

11. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

- *The Agency did not close its ten oldest requests from 2015. FHFA-HQ closed all of its requests, however, FHFA-OIG did not.*

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 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

- *The Agency closed 4 out of 10 of its oldest requests by the end of fiscal year 2016.*

13. Of the requests your agency was able to close from your ten oldest, please indicate how many of these 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?

- *FHFA-HQ – None.*
- *FHFA-OIG – One. Yes. FHFA-OIG provided the requester with an interim response to inquire as to whether requester was still interested in pursuing the request.*

Ten Oldest Appeals

14. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

- *Not applicable.*

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 2015 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 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 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 XII.C. of your Fiscal Year 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

- *Not applicable.*

D. Additional Information on the Ten Oldest Requests, Appeals, and Consultations

18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

- *Obstacles FHFA, in particular FHFA-OIG, encountered in closing its oldest requests include an increased number of requests with very complex and voluminous amounts of materials as well as a small staff to process requests.*

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 2017.

- *FHFA-HQ – Not applicable.*
- *FHFA-OIG – OIG will continue to produce as many documents as possible in the monthly rolling productions in order to close out these requests.*

