



FEDERAL HOUSING FINANCE AGENCY 2018 CHIEF FOIA OFFICER REPORT

March 2018



Freedom of Information Act Office

Introduction

The Federal Housing Finance Agency (FHFA) was established by the Housing and Economic Recovery Act of 2008 (HERA) and is responsible for the effective supervision, regulation, and housing mission oversight of the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Bank System, which includes 11 Federal Home Loan Banks and the Office of Finance. The Agency's mission is to ensure that the regulated entities 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. Since 2008, FHFA has also served as conservator of Fannie Mae and Freddie Mac.

Through its Freedom of Information Act (FOIA) Program, FHFA strives to achieve the following principles:

- 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,” disclosures are timely, and modern technology is used to make information available to the public.

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. The FHFA-OIG operates its own FOIA program. Where information is specific to FHFA-OIG, it has been so noted in the report.



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Name and Title of Agency Chief FOIA Officer:

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

Reporting Period: March 2017 to March 2018

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's 2009 FOIA Guidelines is the presumption of openness.

A. FOIA Training

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive 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 or conducted and the topics covered.

- *Dispute Resolution Skills Training for FOIA Professionals that was provided by OGIS. The training touched on how to resolve problems that FOIA professionals encounter on a day-to-day basis with FOIA requesters and internally within their agency.*
- *The Freedom of Information Act for Attorneys and Access Professionals provided by DOJ. A two-day program provides multiple lectures and workshops for a comprehensive overview of the FOIA, including:*
 - *An overview of the FOIA's procedural requirements and exemptions,*
 - *workshops on individual FOIA Exemptions,*
 - *basic principles for processing FOIA requests from start to finish,*
 - *the FOIA's proactive disclosure requirements, and*
 - *the interface between the FOIA and the Privacy Act.*

3. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA



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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 above.*

B. Outreach

5. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

- *No*

C. Other Initiatives

6. 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 annual refresher training on their duties and responsibilities as the liaison between their office and the FHFA-HQ FOIA Office.*
- *The FHFA-OIG did not undertake any efforts to inform non-FOIA professionals of their obligations under the FOIA.*

7. 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-HQ 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.*
- *FHFA-OIG did not undertake any other initiatives.*

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

DOJ's FOIA Guidelines emphasize 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.

1. For Fiscal Year 2017, 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 2017 Annual FOIA Report.

- *FHFA Total – 1.22*

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 above.*

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

- *FHFA-HQ – Yes. FHFA's FOIA program was tested and assessed as part of FHFA's Enterprise Risk Management and Internal Control oversight under OMB Circular A-123.*
- *FHFA-OIG - No. However, FHFA-OIG intends to conduct testing under OMB Circular A-123 on various records and parts of FHFA-OIG's FOIA program in Fiscal Year 2018.*



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- Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.
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 the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).
- *FHFA-HQ's Public Liaison received no requests for assistance.*
 - *FHFA-OIG Public Liaison received less than 20 requests for assistance.*
5. Optional Survey Question: *Omitted.*
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.
- *FHFA-HQ utilizes a commercial off-the-shelf e-discovery tool to search for and retrieve responsive records. This allows for a more targeted and responsive search process, and less time processing requests.*
 - *FHFA-OIG participates in the CCIG FOIA Working Group periodically to discuss developments regarding FOIA, and to engage in group discussions on questions and best practices.*

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

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

For FHFA-HQ 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*



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- *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*
- *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*



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- *Report on Collateral Pledged to Federal Home Loan Banks*
- *Mortgage Market Notes*
- *Executive Compensation Information*
- *Court Documents*
- *Testimony*

This information can be found at:

<https://www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/Reading-Room.aspx>.

For FHFA-OIG some examples, while not all inclusive, include the following:

- *Press Releases*
- *Peer Review Reports*
- *Regulations, notices, and public comments*
- *Semi-Annual Reports to Congress*
- *Letters to Congress*
- *Systemic Implication Reports*
- *Status and Special Reports*
- *Management Alerts*
- *Compliance Reviews*
- *Audit Reports*
- *Evaluation Reports*
- *Research papers*
- *Risk Assessments*
- *White Papers*
- *FHFA Fiscal Year Management and Performance Challenges*
- *Audit and Evaluation Plans*
- *Strategic Plans*
- *Compendium of Open Recommendations*
- *Testimonies*
- *Frequently Requested Records*
- *Annual Performance Plans*
- *No-Fear Act Data*

This information can be found at www.fhfaoig.gov.

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

- *No*

3. 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.*

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

- *In addition to posting documents to FHFA's FOIA Reading Room, FHFA is also posting documents in other locations on FHFA's website where the public is more likely to look for them, rather than the FOIA Reading Room, such as FHFA Reports and Plans, and Research and Policy documents under FHFA's Research and Policy Website page.*

5. 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

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

1. Has your agency identified any best practices to leverage 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? If yes please describe the best practices, the types of technology used and the impact on your agency's processing.

- *No.*

2. Did your agency successfully post all four quarterly reports for Fiscal Year 2017?

- *Yes.*

3. 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 2018.



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- *Not Applicable, see question 2 above.*

4. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.

- <https://www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/Reading-Room.aspx>

5. If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.

- *No.*

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

The Department of Justice has 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.

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 2017, was the average number of days to process simple requests twenty working days or fewer?

- *FHFA-HQ – 13.76*
- *FHFA-OIG – 7.82*



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3. Please provide the percentage of requests processed by your agency in Fiscal Year 2017 that were placed in your simple track.

- *FHFA-HQ – 69%*
- *FHFA-OIG – 90%*

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, see question 1 above.*

B. 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 2016 and Fiscal Year 2017 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 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

- *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.
- *FHFA-HQ had an increase in its backlog due to increased review time due to the increased complexity (i.e. time periods covered, number of documents and pages) of various requests received.*



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- *FHFA-OIG had an increase in its backlog due 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, 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, OIG 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 2017.

- *FHFA-HQ – 6.06%*
- *FHFA-OIG – 13.6%*

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?

- *FHFA-HQ and FHFA-OIG did not have a backlog of appeals in Fiscal Year 2017.*

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, see question 8 above.*

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 2017. If your



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agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

- *Not Applicable.*

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2017?

- *Not Applicable . Neither FHFA-HQ nor FHFA-OIG had a backlog of over 1000 requests in Fiscal Year 2016.*

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?

- *Not Applicable, see question 11 above.*

D. 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 2016 and Fiscal Year 2017 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

- *FHFA-HQ – Yes.*
- *FHFA-OIG – No.*

14. If no, please provide the number of these requests your agency was able to close by the



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end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

- *FHFA-HQ – Not applicable. See questions 13 above.*
- *FHFA-OIG – 4.*

15. 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 – Not applicable. See question 13 above.*
- *FHFA-OIG – 4. Yes, FHFA-OIG provided interim responses prior to withdrawal of the requests.*

TEN OLDEST APPEALS

16. In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

- *Not Applicable.*

17. 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 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

- *Not Applicable.*

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2017, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2016 Annual FOIA Report?

- *Not Applicable.*

19. 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 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

- *Not Applicable.*



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

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.

- *There were no obstacles to closing the ten oldest requests, appeals or consultations in 2017.*

21. 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.*

22. 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 will continue to produce as many documents as possible in the monthly rolling productions for the current request on Complex track in order to move on to the next request in the Complex track queue.*

F. Success Stories

Out of all the activities undertaken by your agency since March 2017 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, OIP will highlight these agency success stories during Sunshine Week. 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 key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.



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- *FHFA-HQ upgraded its outdated request tracking system. Moving the system to the cloud will ensure FHFA has the latest technology with automatic upgrades to its system and will ensure that FHFA is able to track and respond to requests in a more timely and efficient manner.*

