

2017 Chief FOIA Officer Report
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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the DOJ's 2009 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.

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 or conducted and the topics covered.

The FOIA for Attorneys and Access Professionals, Department of Justice, which covered these topics: FOIA processing from start to finish, fees and fee waivers, FOIA litigation considerations, FOIA exemptions overview, Exemption 6 and 7, Exemption 7, FOIA and Privacy Act interface, administrative appeals and mediation services, accuracy and accountability in FOIA processing.

Regional FOIA Liaison sent out e-mail on March 18, 2016, on the subject of "FOIA Matters," which provided information relevant to all Region X FOIA Liaisons and Program Office Coordinators, on the topics: Exemption 4 submitter notice, annual FOIA reports posted, and ID verification requirement.

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.

Eighty percent of HUD's FOIA professionals attended substantive FOIA training.

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.

N/A

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?

HUD's New York Regional Office staff conferred regularly with media requesters, civil rights and housing advocates, and private attorneys to discuss FOIA processing, statutes, and implementing regulations. The New York Office conducted this outreach as a result of feedback received in the past from requesters who appreciated engaging in additional communication with HUD personnel. Housing advocates, especially, like periodic updates on any new loan or modification programs available through HUD, which ultimately benefit homeowners and tenants.

6. If you conducted no outreach during the reporting period, please describe why.

N/A

C. Other Initiatives

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

The Department plans to hold region-wide Virtual Training Center training for all staff, titled "FOIA and Your Responsibilities as a Federal Employee" during Fiscal Year 2017, Quarter 2. The Department of Justice's Office of Information Policy (OIP) developed new FOIA resources designed to train all levels of the federal workforce to understand their FOIA responsibilities. The new collection of training tools is designed to help ensure that important resources are available for all Federal employees—from the senior executive, to the average employee whose records might become subject to the FOIA, to the FOIA professionals responsible for processing records for disclosure. The OIP e-learning training modules will accommodate the Department's delivery of crucial annual FOIA training requirements in a highly cost-effective, consistent, and convenient mode, not only to Headquarters' FOIA professionals, but also to HUD's Regional and Field FOIA professionals, who often are unable to travel to the Washington, DC, area to attend live training. DOJ staff continues to work with HUD to facilitate delivery of these crucial FOIA e-Learning modules, which will soon be made available to all employees via the HUD Virtual University.

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

The Department's FOIA regulations were recently updated to ensure openness and consistency. The revised regulations also provide a cornerstone for training liaisons across the Department. To convey HUD's due diligence efforts, in instances where responsive records cannot be located, the final response letter includes an explanation informing the requester, where possible, why HUD would not have the records being sought and where those records may be obtained.

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.

1 day.

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.

N/A

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.

The Department continuously self-assesses the FOIA process. For each FOIA request received, FOIA team members work with each other throughout the life of the request to ensure timely processing, a presumption of openness, and adherence with the FOIA and agency regulations. In addition, both the FOIA Branch and Office of General Counsel have a system of redundancy in place so that if a team member is taken away from the assignment, another person can fill in with relative ease.

In the fourth Quarter of 2016, HUD's new Chief FOIA Officer initiated a multi-faceted program review of FOIA operations. Using annual report data, workflow analysis, and interviews with both FOIA staff and HUD leadership and stakeholders, this review resulted in an increased emphasis on hiring experienced FOIA analysis, institution of a formal quality review process within the FOIA unit itself, elimination of redundant reviews by non-subject matter experts, and the streamlining of reporting functions for leadership awareness. She also initiated an emphasis on global information management training for all FOIA Branch employees, and removed bottlenecks caused by ineffective supervisors.

4. 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.

369.

B. Requester Services

5. Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

The Department practices open communication with requesters, which includes allowing requesters to provide feedback directly to the FOIA Liaisons, FOIA Specialists, and any member of the FOIA team processing their request.

6. 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.

Approximately 60 times.

7. 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.

https://portal.hud.gov/hudportal/documents/huddoc?id=FOIA_REF_GUIDE.pdf

C. Other Initiatives

8. 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.

Management utilizes several custom and ad hoc reports to assess efficiencies and eliminate redundancies. Many are programmed to automatically generate in HUD's electronic FOIA management system. Senior management also meets with FOIA Liaisons, Department-wide, to discuss new ideas, ways to streamline processes, obtain feedback, provide assistance and training, and resolve any problems and/or concerns.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and DOJ's FOIA memoranda 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.

A. Posting Material

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

HUD monitors its FOIA logs regularly and identifies material to be posted to its website. A comprehensive list of documents and materials have been compiled and posted, and are updated and reviewed quarterly.

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.

Upon receipt of responsive records from program staff, FOIA Liaisons are tasked with reviewing those records for proactive disclosure. Once identified, the Liaisons are responsible for collaborating with management, program, and legal staff.

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.

N/A

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

HUD Highest Scoring Funding Grant Applications:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/highscore

Updated guidance on Home Equity Conversion Mortgage Claim Type 22 Assignment Requests, and, Technology Security and Data Privacy Protocols describing requirements for communicating IT and consumer data privacy issues to FHA by all FHA-approved mortgagees and lenders: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/lender

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

The Department utilized Facebook and Twitter to inform requesters of content available on HUD's website.

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?

The posted material is reviewed quarterly to ensure that the websites are functional and the materials are current and available for viewing.

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 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.

Requesters appear to find the information on HUD's website very useful, as evidenced by the decline or extremely slight increases in the number of yearly requests received. The FOIA webpage is very user friendly and contains a plethora of information, such as the highest scoring grants, which serve as a guide to future applicants applying for HUD funding. The number of requests for this type of information has declined tremendously over the past 3–4 years. Also, FHA-approved lenders are also posted to provide aid to potential home buyers when searching for qualified lenders.

An example of how HUD has utilized technology to improve public access to information is allowing the public to electronically file FOIA appeals online. HUD has updated the FOIA website to include guidance on submitting appeals electronically with the Department when the requester is not satisfied with the Department's determination in response to their FOIA request and can the link can to file appeals electronically can be found at:

https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/foiaappeals

3. Have your agency's FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?

Yes, FOIA staff frequently solicit assistance from the information technology staff to help facilitate online postings.

B. Use of Technology to Facilitate Processing of Requests

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools?

Training was provided on the recent upgrades to the FOIA Management System, which is utilized by all FOIA Liaisons Departmentwide. A few of the upgrades included an enhanced redacting tool and faster transmittal of misdirected requests.

5. 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? If yes, please describe:

- The technological improvements being made. – Upgrades to HUD’s electronic FOIA Management System have aided in facilitating overall efficiency.
- The impact of using these technologies on your agency’s request processing. – Improved search capabilities, enhanced accuracy in the assessment of fees and calculation of processing days, automatic population of requesters’ contact information, and status updates, which are accessible to requesters via the Public Access Link of the FOIA Management System.

6. Are there additional tools that could be utilized by your agency to create further efficiencies?

The Department continues to look at software that would allow a user to sift through emails and identify duplicates, which would greatly reduce search time and allow further efficiencies.

C. Other Initiatives

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

Yes.

8. 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.

N/A

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

The President’s FOIA Memorandum and the DOJ’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.

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?

No.

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

72 percent.

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?

N/A

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 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.

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. – **Yes.**
- A loss of staff. – **Yes.**
- 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. – **Yes.**
- Any other reasons – please briefly describe or provide examples when possible. – **The lack of reduction in the request backlog appears to be the result of a slight increase in the number of incoming requests, the loss of experienced FOIA staff, and an increase in the complexity of the requests received.**

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.

14 percent.

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?

No.

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. – **Yes.**
- A loss of staff. – **Yes, there was retirement and personnel changes amongst the FOIA 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. – **N/A**
- Any other reasons – please briefly describe or provide examples when possible.

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.”

14 percent.

C. Backlog Reduction Plans

11. In the 2016 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2015 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2016?

N/A

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2016, what is your agency's plan to reduce this backlog during Fiscal Year 2017?

N/A

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

TEN OLDEST REQUESTS

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

Nine of the oldest requests were closed during Fiscal Year 2016 and the tenth request was closed in October 2016.

14. 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.

N/A

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?

Four requests were withdrawn by requesters; one interim response was provided prior to withdrawal.

TEN OLDEST APPEALS

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

No.

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

Seven of the ten oldest appeals from the FY 2015 report were closed in FY 2016.

TEN OLDEST CONSULTATIONS

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

HUD did not have any consultations pending in the Fiscal Year 2015 Annual FOIA Report.

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

N/A

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 2015.

HUD had three remaining appeals to close from the end of FY 2015. The initial requests were complex and voluminous, one required submitter notification for records pertaining to 14 different properties over a 6-year period. The requester's appeal of HUD's final response was upheld.

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.

N/A

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.

Additional FOIA staff has been devoted to the remaining appeals.

F. Interim Responses

23. Does your agency have a system in place to provide interim responses to requesters when appropriate? *See OIP Guidance, "The Importance of Good Communication with FOIA Requesters."* (Mar. 1, 2010)

HUD can now capture interim responses in its FOIA Management System.

24. If your agency had a backlog in Fiscal Year 2016, 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.

Substantive interim responses were provided 39 percent of the time.

G. Success Stories

Out of all the activities undertaken by your agency since March 2016 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 key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

The Department remains committed to building up its infrastructure to respond to document requests pursuant to FOIA. In 2016 HUD recruited a nationally-recognized FOIA expert as Executive Secretary and Chief FOIA Officer. She is a career member of the Senior Executive Service with 20 years of public and private sector experience in FOIA. Under her leadership, the Department has undertaken a systemic review of HUD's FOIA program and plans to implement a recruitment plan to hire additional experienced, full-time FOIA professionals to the FOIA Branch. HUD's continuing investments in technology and experienced FOIA professionals has prepared the agency to meet the challenge of changes in FOIA volume, law, and policy.

HUD provided remote guidance and consultation to a program subject matter expert (SME) in the processing of a highly complex media FOIA request that involved over 8,000 pages of potentially responsive documents. HUD's SharePoint portal was used by the SME to upload voluminous documents for remote review and consultation by the FOIA Liaison. Upon preliminary review and assessment of the scope of records, the FOIA Liaison communicated with the requester and provided an interim response of key records that ultimately satisfied the requester and eliminated the potential of 3 to 4 months of additional processing time that would have been unnecessary.