

FEDERAL HOUSING FINANCE AGENCY
FY09 FREEDOM OF INFORMATION ACT REPORT



Approved: Edward J. DeMarco Date: 1-4-2010
Edward J. DeMarco, Acting Director

**FEDERAL HOUSING FINANCE AGENCY
FY09 Freedom of Information Act (FOIA) Report**

I. BASIC INFORMATION REGARDING REPORT

1. The contact person for questions concerning this report is Stacy J. Easter, FOIA Officer, Federal Housing Finance Agency (FHFA), Constitution Center, 400 7th Street, SW, Washington, DC 20024. Stacy Easter can also be contacted via telephone at (202) 649-3803 or by E-mail: foia@fhfa.gov.
2. A copy of this report is maintained on the Agency website. The link to access this report is: www.fhfa.gov/AboutUs/Reports/Pages/FY-2009-Freedom-of-Information-Act-Report.aspx.
3. A paper copy of this report can be obtained by contacting Stacy Easter, FOIA Officer, at the above address, or at the following link: www.fhfa.gov/AboutUs/Contact/Pages/Data-and-Research-Form.aspx.

II. MAKING A FOIA REQUEST

1. FOIA requests are received by the FOIA Officer – Stacy J. Easter, FOIA Officer, Federal Housing Finance Agency, 400 7th Street, SW, 8th Floor, Washington, DC 20024. Telephone: 202-649-3803. E-mail: foia@fhfa.gov. Information on submitting a FOIA request is available at: www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/FOIA-Reference-Guide.aspx.
2. The following is a brief description of why some requests are not granted:
 - a. Requests are not granted if no records exist for requested information.
 - b. Requests are not granted if records are exempt in their entirety from disclosure.
 - c. Requests are not granted if the records are not maintained by the agency.

3. The following is an overview of certain general categories of agency records to which the FOIA exemptions apply.
 - a. Exemption 4 exempts records that contain trade secrets and commercial and financial information obtained from a person that is privileged and confidential. (5 U.S.C. § 552(b)(4)).
 - b. Exemption 5 exempts inter-agency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the agency. Records withheld under this exemption are those that reflect the agency's predecisional, deliberative process, the release of which could inhibit open and candid discourse, debate, advice, recommendations, and exchanges of views within the agency before formation of an official agency position. Attorney-client privileged communications also are covered by this exemption. (5 U.S.C. § 552(b)(5)).
 - c. Exemption 8 exempts records of matters that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions. (5 U.S.C. § 552(b)(8)).

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Agency-specific acronyms or terms used in this report:
 - a. **FHFA** - Federal Housing Finance Agency
2. Definitions of terms used in this report:
 - a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
 - b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
 - c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.

- d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within the agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
- e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – a FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non-U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests, which require the agency to utilize the FOIA in responding to the requester, are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entireties under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
- n. **Perfect Request** – a request for records, which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
- p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
- q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Include the following concise descriptions of the nine FOIA exemptions:
 - a. **Exemption 1:** classified national defense and foreign relations information
 - b. **Exemption 2:** internal agency rules and practices
 - c. **Exemption 3:** information that is prohibited from disclosure by another federal law
 - d. **Exemption 4:** trade secrets and other confidential business information
 - e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
 - f. **Exemption 6:** information involving matters of personal privacy
 - g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual
 - h. **Exemption 8:** information relating to the supervision of financial institutions
 - i. **Exemption 9:** geological information on wells

IV. EXEMPTION 3 STATUTES

1. Exemption 3 Statutes Relied upon to Withhold Information

Statute	Type of Information Withheld	Case Citation	Number of Times Relied Upon	Total Number of Times Relied Upon by Agency
0	N/A	N/A	0	0

V. FOIA REQUESTS

A. Received, Processed and Pending FOIA Requests

	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
AGENCY OVERALL	7*	118	116	9

*This number reflects pending requests at the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB). The two agencies merged and became the Federal Housing Finance Agency in July 2008.

B. (1) Disposition of FOIA Requests – All Processed Requests

	Full Grant	Partial Grant/ Partial Denials	Full Denial Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other Explain in chart below	
AGENCY OVRALL	15	16	25	39	1	18	0	0	0	1	0	1	116

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B(1) Chart

	Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon	TOTAL
AGENCY OVERALL	FOIA2009-13 was handled as a consumer inquiry by the FHFA’s Office of External Relations.	1

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
AGENCY OVERALL	0	3	0	32	18	9	0	0	0	0	0	0	28	0

VI. APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

A. Received, Processed and Pending Administrative Appeals

Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
0	10	10	0

B. Disposition of Administrative Appeals – All Processed Appeals

Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
9	1	0	0	10

C. (1) Reasons for Denial on Appeal – Number of Times Exemption Applied

Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
0	0	0	6	2	1	0	0	0	0	0	0	7	0

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other
2	0	0	0	0	0	0	0	0	0	0

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C(2) Chart

Description of “Other Reasons for Denial on Appeal from Chart C(2) & Number of Times Those Reasons Were Relied Upon	TOTAL
N/A	0

C. (4) Response Time for Administrative Appeals

Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
17	19	8	52

C. (5) Ten Oldest Pending Administrative Appeals

Oldest Pending Administrative Appeals	TOTAL
FHFA has no pending administrative appeals.	0

VII. FOIA REQUESTS: RESPONSE TIME FOR PROCESSED AND PENDING REQUESTS

A. Processed Requests – Response Time for All Perfected Requests

	SIMPLE				COMPLEX				EXPEDITED			
	Med. No. of Days	Avg. No. of Days	Lowest No. of Days	Highest No. of Days	Med. No. of Days	Avg. No. of Days	Lowest No. of Days	Highest No. of Days	Med. No. of Days	Avg. No. of Days	Lowest No. of Days	Highest No. of Days
AGENCY OVERALL	33	14	<1	48	34	40	8	139	33	31	4	52

B. Processed Requests – Response Time for Perfected Requests Where Information was Granted

	SIMPLE				COMPLEX				EXPEDITED			
	Med. No. of Days	Avg. No. of Days	Lowest No. of Days	Highest No. of Days	Med. No. of Days	Avg. No. of Days	Lowest No. of Days	Highest No. of Days	Med. No. of Days	Avg. No. of Days	Lowest No. of Days	Highest No. of Days
AGENCY OVERALL	16	15	<1	33	42	50	20	139	34	40	33	52

C. Processed Requests – Response Time in Day Increments

SIMPLE REQUESTS														
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	53	11	1	0	0	0	0	0	0	0	0	0	0	65

COMPLEX REQUESTS														
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	7	10	7	1	1	1	1	0	0	0	0	0	0	28

Requests Granted Expedited Processing														
	1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
AGENCY OVERALL	1	3	1	0	0	0	0	0	0	0	0	0	0	5

D. Pending Requests – All Pending Perfected Requests

	SIMPLE			COMPLEX			EXPEDITED		
	No. Pending	Median No. of Days	Avg. No. of Days	No. Pending	Median No. of Days	Avg. No. of Days	No. Pending	Med. No. of Days	Avg. No. of Days
AGENCY OVERALL	2	5	5	7	109	87	0	0	0

E. Pending Requests – Ten Oldest Pending Perfected Requests

	10TH Oldest Request & Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request and Number of Days Pending
AGENCY OVERALL	Date	29 Sep 09	17 Sep 09	15 Sep 09	10 Sep 09	11 Jun 09	27 Apr 09	17 Apr 09	07 Apr 09	05 Feb 09
	Number of Days	1	9	10	13	76	109	115	123	165

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY OVERALL	5	0	2	2	5

B. Requests for Fee Waiver

	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY OVERALL	0	1	3	3	1

IX. FOIA PERSONNEL AND COSTS

	PERSONNEL			COSTS		
	Number of “Full-Time FOIA Employees”	Number of “Equivalent Full-Time FOIA Employees”	Total Number of “Full-Time FOIA Staff” (The SUM of Columns 1 & 2)	Processing Costs (At initial request and appeal levels)	Litigation-Related Costs	Total Costs
AGENCY OVERALL	0	1.00	1.00	\$150,000.00	0	\$150,000.00

X. FEES COLLECTED FOR PROCESSING REQUESTS

	Total Amount of Fees Collected	Percentage of Total Costs
AGENCY OVERALL	\$36.00	< 1%

XI. AGENCY FOIA REGULATIONS AND FEE SCHEDULE

A. Link to Agency FOIA Regulation: www.fhfa.gov/SupervisionRegulation/Rules/Pages/Freedom-of-Information-Act-FOIA.aspx.

B. Link to Agency FOIA Fee Schedule: www.fhfa.gov/AboutUs/FOIAPrivacy/Pages/FOIA-Reference-Guide.aspx.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS

A. Backlogs of FOIA Requests and Administrative Appeals

	Number of Backlogged <u>Requests</u> as of End of Fiscal Year	Number of Backlogged <u>Appeals</u> as of End of Fiscal Year
AGENCY OVERALL	5	0

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations.

	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year
AGENCY OVERALL	0	0	0	0

C. Consultations on FOIA Requests – Ten Oldest Pending Consultations

	10TH Oldest Consultation and Number of Days Pending	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation and Number of Days Pending
AGENCY OVERALL	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged.

	NUMBER OF REQUESTS RECEIVED		NUMBER OF REQUESTS PROCESSED	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	74*	118	67*	116

*This number reflects last year's number received at the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB). The two agencies merged and became the Federal Housing Finance Agency in July 2008.

	COMPARISON OF BACKLOGGED REQUESTS	
	Number of Backlogged Request as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	7	5

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged.

	NUMBER OF APPEALS RECEIVED		NUMBER OF APPEALS PROCESSED	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
AGENCY OVERALL	3*	10	3	10

* This number reflects last year's number received at the Office of Federal Housing Enterprise Oversight (OFHEO) and the Federal Housing Finance Board (FHFB). The two agencies merged and became the Federal Housing Finance Agency in July 2008.

	COMPARISON OF BACKLOGGED APPEALS	
	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
AGENCY OVERALL	0	0