



# Federal Housing Finance Agency

## FEDERAL HOUSING FINANCE AGENCY 2015 CHIEF FOIA OFFICER REPORT MARCH 16, 2015

### Preface

The Federal Housing Finance Agency (FHFA) was created on July 30, 2008, with the signing of the Housing and Economic Recovery Act of 2008 (Act). FHFA is an independent regulatory agency responsible for the oversight of vital components of the secondary mortgage markets — Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (collectively the “Housing Government-sponsored Enterprises”). The Act gave FHFA the authority necessary to oversee and regulate these components of the nation’s secondary mortgage market.

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. Together these institutions provide more than \$5 trillion in funding for the U.S. mortgage markets and financial institutions.

Through its Freedom of Information Act (FOIA) Program, FHFA strives to achieve the principles set forth by the President and Attorney General. Specifically, the President directed agencies to:

- Administer the FOIA with a clear presumption in favor of disclosure, remove doubts in favor of openness, and not withhold information based on speculative or abstract fears; and
- Ensure that requests are responded to in “a spirit of cooperation,” that disclosures are timely, and that modern technology is used to make information available to the public even before a request is made.

FHFA is committed to providing access to agency records through a citizen-centered and results-oriented FOIA program. To facilitate this access, FHFA adopted the plain language question and answer format for its FOIA regulation which is typically preferred by the general public. The FOIA Office, which is comprised of the Chief FOIA Officer, FOIA Officer and FOIA Liaison, continually reviews ways to improve the efficiency, effectiveness, and transparency of FHFA’s FOIA program.

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

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

***Reporting Period: March 2014 to March 2015***

**Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

*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. 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%*

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

*FHFA's 2014 plan was to ensure that all agency FOIA professionals attend substantive FOIA training every year. This was carried out by incorporating FOIA training into annual performance plans as well as Individual Development Plans. All FHFA FOIA professionals took FOIA training during the reporting period.*

*Discretionary Disclosures:*

4. Does your agency have a distinct process or system in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized,

please specify whether all components at your agency have a process in place for making discretionary releases.

*Yes. The process begins with the FOIA Officer determining that records may be eligible for discretionary releases. Determinations are then made between the record owner, FOIA Officer and Chief FOIA Officer about whether a discretionary release may be made.*

5. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

*Yes.*

6. What exemptions would have covered the information that was released as a matter of discretion?

*Exemption 5.*

7. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

- *Internal emails between agency staff*
- *Emails between agency staff and outside counsel*
- *Agency Acting Director calendar entries*
- *General Counsel handwritten notes/comments*

8. If your agency was not able to make any discretionary releases of information, please explain why.

*Not applicable.*

*Other Initiatives:*

9. 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 better understand what the requester seeks and whether any responsive records can be located and released;*
- *Applying the foreseeable harm standard to information that could be properly*

- withheld under Exemptions 2 and 5; and*
- *Proactively posting information on FHFA's website when multiple FOIA requests are made for the same information so that the information is readily available to the public.*

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

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient.

### *Processing Procedures:*

1. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing?

*The average number of days to respond was 1.8 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.*

### *Requester Services:*

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

*Yes.*

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication?

*Yes.*

5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester?

Yes.

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

*FHFA is taking or has taken the following steps to ensure that the system for responding to FOIA requests is effective and efficient while safeguarding sensitive and confidential records in accordance with Federal laws and regulations:*

- *Providing requesters with a more detailed explanation of how each search was conducted and, if applicable, why the agency does not have responsive records, and why a particular exemption was cited when withholding documents;*
- *Maintaining more complete data on each request to facilitate easier reporting, analysis and monitoring of the number of denials, partial disclosures, and full disclosures and the types of information disclosed;*
- *Developed correspondence templates to ensure that requesters receive confirmation of receipt of their request and responses to their requests in an expeditious manner;*
- *Assigning individual tracking numbers to each request to make it easier for requesters to inquire about their request;*
- *Using multi-track processing in order to respond more rapidly to simple requests on a separate track from complex requests;*
- *Updated the agency's public website to include updating : 1) the FOIA Reference Guide; 2) Frequently Asked Questions page; and 3) providing links to the Department of Justice's FOIA page;*
- *Providing IT support to the FOIA program to improve efficiency in searching for responsive electronic records;*
- *Maintaining dedicated FOIA telephone line and email account specifically to communicate with requesters;*
- *Continuing to developing standard internal protocols for searches, use of exemptions, and processing and authorizing responses, disclosures and denials;*
- *Developed training and educational materials for agency staff to understand roles and responsibilities under FOIA; and*
- *Assessing ways to improve the responsiveness and efficiency of its processes for responding to requests.*

### **Section III: Steps Taken to Increase Proactive Disclosures**

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

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.

*Posting Material:*

1. Does your agency have a system in place to identify records for proactive disclosures? If so, please describe your agency's process or system.

*Yes. The FOIA Office regularly reviews requests to determine whether multiple requests have been made for the same information and, to the extent there are, the FOIA Office works with program offices and the Open Government team to identify records and data that can be made publicly available.*

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe the interaction.

*Yes. The FHFA FOIA Office works closely with program offices, and the Open Government and the Information and Technology teams.*

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

*FHFA periodically reviews the FOIA requests to determine if there are multiple or recurring requests for the same records and, if so, whether those records have been or can be released and whether they can be posted online proactively.*

4. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online. *Some examples, while not all inclusive, include the following:*

- *Press Releases*
- *Monthly interest rate survey data*
- *Regulations, notices, and public comments*
- *Capital disclosures*
- *Letters to Congress*
- *Federal Home Loan Bank Membership data*
- *Supervision handbooks and guidance*
- *Research papers*
- *Advisory Bulletins*
- *Final Opinions and Orders*
- *Policy and Administrative Staff Manuals*
- *Frequently Requested Records*
- *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*
- *Foreclosure Prevention Reports*
- *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*
- *Sustainability Plans*
- *Strategic Plans for the Conservatorships of Fannie Mae and Freddie Mac*
- *Public Use Databases for Fannie Mae and Freddie Mac*
- *Public Use Databases for the Federal Home Loan Banks*
- *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*
- *U.S. House Price Index Report*
- *Executive Compensation Information*

*This information can be found at [www.fhfa.gov](http://www.fhfa.gov). Reports can be found here: <http://www.fhfa.gov/AboutUs/reportsplans>.*

#### *Other Initiatives*

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe here.

*Not applicable.*

#### **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 describes your agency's efforts in this area.

*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 completely revised its public facing website to make it more user friendly as well as easier to locate/search for information about FHFA.*

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

*No.*

4. If so, please briefly explain what those challenges are.

*Not applicable.*

*Other Initiatives:*

5. Did you agency successfully post all four quarterly reports for Fiscal Year 2014?

*Yes.*

6. 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 2015.

*Not applicable.*

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?

*Yes.*

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? *No.* If yes, does your agency inform requesters about such information?

*Not applicable.*



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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

*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, for Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

*Yes. The average number of days was 18.62 days.*

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

*84%*

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

*Not applicable.*

*Backlogs:* 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 2013 and Fiscal Year 2014 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 2014, did that backlog decrease as compared with Fiscal Year 2013?

*Yes.*

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

*Not applicable.*

6. 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 2014.

*The percentage of requests that make up the backlog is 4%.*

If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with “N/A.”

*Not applicable.*

#### *Backlogged Appeals:*

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013. If not, please explain why and describe the causes that contributed to your agency not being able to reduce the backlog. When doing so, please 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 appeals received

*FHFA did not have a backlog of appeals at the end of Fiscal Year 2014.*

8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with “N/A.”

*Not applicable.*

#### *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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

#### Ten Oldest Requests

9. In Fiscal Year 2014, did your agency close the ten oldest requests received by your agency and pending as of the end of Fiscal Year 2013?

*No. FHFA's Office of Inspector General did not close two pending requests from 2013.*

10. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

*Out of the 8 oldest requests at the end of Fiscal Year 2014, the Office of Inspector General was able to close 6 requests by the end of FY 2014.*

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

*None were closed because the request was withdrawn.*

#### Ten Oldest Appeals

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

*Not applicable.*

13. 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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

*Not applicable.*

#### Ten Oldest Consultations

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

*Not applicable.*

15. 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 VII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

*Not applicable.*

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

16. Briefly explain any obstacles your agency faced in closing the ten oldest requests, appeals, and consultations from Fiscal Year 2013.

*Obstacles the Office of Inspector General faced included limited FOIA staff and a voluminous amount of responsive material to review for the two oldest requests. The two oldest requests involved tens of thousands of pages of documents that needed to be reviewed.*

17. 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.*

18. 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 2015.

*One of the two remaining oldest requests in the Office of Inspector General was closed on January 16, 2015. Regarding the remaining oldest request, documents are being provided to the requester on a rolling basis.*

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

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c) (1), (2), (3) during Fiscal Year 2014?

*No.*

2. If so, please provide the total number of times exclusions were invoked.

*Not applicable.*