

**2023 Chief FOIA Officer Report**  
**Federal Deposit Insurance Corporation**  
**Harrel Pettway, General Counsel and Chief FOIA Officer**  
**March 2022 - March 2023**

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS

The guiding principle underlying the Attorney General’s FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

**A. Leadership Support for FOIA**

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency’s Chief FOIA Officer at or above this level?

**Answer:** Yes

2. Please provide the name and title of your agency’s Chief FOIA Officer.

**Answer:** Harrel Pettway, General Counsel

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

**Answer:** The FDIC FOIA/Privacy Act Group (FOIA Group) successfully implemented its FOIA Software Modernization Project, which resulted in a new FOIA/Privacy Act request case management and processing system (FOIA case management system) built on an e-discovery platform; this project was classified as an FDIC agency-wide Performance Goal. In addition, the FOIA Group is currently in the process of creating standard operating procedures (SOP) specific to the FDIC’s FOIA/Privacy Act program. We believe these forthcoming SOPs will be a coveted resource to preserve institutional FOIA knowledge and serve as a go-to resource for new FOIA hires. Finally, the FDIC is currently exploring the opportunity to offer agency-wide FOIA training so that every employee at the FDIC understands the basics and importance of the FOIA.

**B. Presumption of Openness**

4. The Attorney General’s 2022 FOIA Guidelines provides that “agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions.” Does your agency provide such confirmation in its response letters?

**Answer:** Yes

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a *Glomar* response. With respect to these responses, please answer the below questions:

- a. In addition to tracking the asserted exemption, does your agency specifically track whether a request involved a *Glomar* response?

**Answer:** Yes

- b. If yes, please provide:
  - i. the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);

**Answer:** One (1) time

- ii. the number of times a *Glomar* response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).

**Answer:** Exemption 7(C) – One (1) time; Exemption 7(E) – One (1) time

- c. If your agency does not track the use of *Glomar* responses, what would your agency need to do to track in the future? If possible, please describe the resources and time involved.

**Answer:** N/A

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

**Answer:** In compliance with NARA’s 2016-18 FOIA Advisory Committee’s “Final Report and Recommendations,” the FOIA Group staff are disclosing the FOIA Logs quarterly and disclosing the Chairman’s Calendars on a regular basis upon receipt. Also, as described in more detail herein, during this reporting period, the FOIA Group implemented a new FOIA case management system built on an e-discovery platform. This system assists the FOIA Group with identifying and tracking frequently requested records for posting and provides FDIC divisions and offices with the ability to maintain and input their own (a)(2) postings. We are looking forward in the next reporting period to fully implement the above-mentioned capabilities into FOIA Group operations.

## SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

The Attorney General’s FOIA Guidelines provide that “[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce.” The Guidelines reinforce longstanding guidance to “work with FOIA requesters in a spirit of cooperation.” The Attorney General also “urge[s] agency Chief FOIA

Officers to undertake comprehensive review of all aspects of their agency’s FOIA administration” as part of ensuring fair and effective FOIA administration.

## **A. FOIA Training**

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

**Answer:** The FDIC provides and promotes two substantive FOIA trainings for agency personnel on the FDIC intranet (FDIC Learning Experience) from the Department of Justice’s (DOJ) Office of Information Policy (OIP) e-Learning modules: “FOIA Training for All Employees” and “FOIA Training for Professionals.” Additionally, the FOIA Group supervisor regularly gives briefings on the FOIA to incoming FDIC staff, such as new Legal Division employees. She has also conducted training during this reporting period for various FDIC offices and divisions, including the Office of the Ombudsman, the Office of Minority and Women Inclusion, the Legal Division’s Professional Liability Unit, and the Division of Resolutions and Receiverships. Upon request, the FOIA Group provides informal briefings on the FOIA throughout the year to all agency offices and divisions. The FOIA Group also provides bi-weekly training for our FOIA Program Office Coordinators, who do not work in the FOIA Group, on how to use different features of the new FOIA case management system. The FOIA Coordinators are given an opportunity to ask both system-related questions, as well as substantive FOIA-related questions that they may have during each training session. Finally, the FOIA Group has recently instituted bi-annual training seminars for our FOIA Coordinators, the first of which will take place on February 7, 2023. These trainings will consist of both substantive FOIA issues and administrative procedures.

2. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

**Answer:** Yes

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

**Answer:** FOIA training taken by FDIC FOIA professionals or staff with FOIA responsibilities consisted of virtual training provided by DOJ OIP, to include the following topics: “Continuing FOIA Education,” “Privacy Considerations,” “Exemption 4 and Exemption 5,” and “Litigation Seminar.”

4. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

**Answer:** 100%

5. 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.

**Answer:** N/A

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency’s FOIA resources, obligations and expectations during the FOIA process?

**Answer:** The Supervisor of the FOIA Group continues to give presentations to incoming employees, including new Legal Division employees, on FOIA basics and their role in the FOIA process. She has also conducted training during this reporting period for various FDIC offices and divisions, including the Office of the Ombudsman, the Office of Minority and Women Inclusion, the Legal Division’s Professional Liability Unit, and the Division of Resolutions and Receiverships. Senior leaders of these various offices and divisions have attended these training sessions. Upon request, the FOIA Group provides informal briefings on the FOIA throughout the year to all agency offices and divisions. Additionally, two DOJ OIP e-Learning modules, “FOIA Training for All Employees” and “FOIA Training for Professionals,” are available online to all employees through the FDIC Learning Experience. As mentioned above, the FOIA Group provides bi-weekly training for our FOIA Program Office Coordinators, who do not work in the FOIA Group, on how to use different features of the new FOIA case management system. Finally, as noted above, the FOIA Group has recently instituted bi-annual training seminars for our FOIA Coordinators, the first of which will take place on February 7, 2023.

## **B. Outreach**

7. Did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

**Answer:** The FOIA Group engaged in outreach with the requester community or open government groups this past year by posting on our FOIA webpage guidance regarding the FDIC’s implementation and transition to a new FOIA case management system. Additionally, all of the FOIA Group staff frequently communicate with requesters, as needed, concerning particular FOIA requests to ensure that the FDIC is processing its FOIA requests as accurately, thoroughly, and timely as possible.

8. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope

of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue, and, if applicable, any specific examples.

**Answer:** Yes. When the FOIA Group receives requests that do not comply with the FOIA or our regulations, such as requests that are not reasonably described or overbroad, we make every effort to contact requesters and provide them an opportunity to clarify and refine their request in order for it to be further processed.

9. 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 Fiscal Year 2022 (please provide a total number or an estimate of the number).

**Answer:** Requesters sought assistance from the FDIC's FOIA Public Liaison 35 times during this reporting period.

### **C. Other Initiatives**

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

**Answer:** Yes. Earlier this year, the FDIC filled a staffing gap by hiring a new Senior Attorney in the FOIA Group. We have also utilized the resources available through the FDIC's Honors Attorney Program. We have hosted three Honors Attorneys who rotated through the FOIA Group and worked on both technical and legal matters, and these attorneys have been a great asset to our program. Going forward, the FOIA Group is assessing whether it may need additional support at the Government Information Specialist (GIS) level to ensure adequate staffing due to the continued increase in the number of requests received each year and the volume of documents responsive to each request.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

**Answer:** With the implementation of our new FOIA case management system, the FOIA Group is now able to create and review various types of reports and analytics pertaining to all requests. For example, FOIA staff can quickly identify all requests asking for expedited processing, all overdue requests, and requests assigned to certain program offices. Additionally, the new system allows data to be presented in pie charts and graphs, which allows management to quickly review the workload of each GIS, the age of requests, and the status of requests, among other things.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

**Answer:** In order to ensure efficiency and effectiveness, the FOIA Group produces regular reports for its senior management in order to monitor the timely and proper processing of requests. Additionally, the FOIA Group staff works closely with the FDIC case management system's support staff to resolve any glitches or connectivity issues that may occur with the new system.

### SECTION III: PROACTIVE DISCLOSURES

The Attorney General's FOIA Guidelines emphasize that "proactive disclosure of information is . . . fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

**Answer:** At this time, the FOIA Group manually identifies and tracks our own (a)(2) postings throughout the year. While drafting the FOIA Annual Report, the FOIA Group reaches out to each of the FDIC's divisions and offices to get an accounting of their yearly (a)(2) postings. However, during this reporting period, the FDIC implemented a new FOIA case management system to assist the FOIA Group with identifying and tracking frequently requested records for posting and to allow FDIC FOIA Program Office Coordinators to maintain and input their own (a)(2) postings. In the next reporting period, we look forward to having fully implemented these capabilities.

2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

**Answer:**

Information posted on the FDIC's website during the reporting period includes:

Two letters to members of the FDIC Board of Directors:

<https://www.fdic.gov/foia/files/fdicboardgovernanceandbylaws.pdf>

Updated section to the Formal and Informal Enforcement Actions Manual:

<https://www.fdic.gov/regulations/examinations/enforcement-actions/index.html>

Updated sections to the Risk Management Manual of Examination Policies:

<https://www.fdic.gov/regulations/safety/manual/>

Updated sections to the Trust Examination Manual:

<https://www.fdic.gov/regulations/examinations/trustmanual/>

Sixty new Financial Institution Letters through December 13, 2022:

<https://www.fdic.gov/news/financial-institution-letters/index.html>

Quarterly Banking Profiles through September 30, 2022:  
<https://www.fdic.gov/analysis/quarterly-banking-profile/index.html>

FDIC Consumer News through December 2022:  
<https://www.fdic.gov/resources/consumers/consumer-news/consumer-news-list.html>

Documents considered at FDIC Board of Director's open meetings through December 13, 2022:  
<https://www.fdic.gov/news/board-matters/index.html>

FDIC Chairman's Calendars:  
Monthly through March 2022  
<https://www.fdic.gov/foia/chairmanschedule.html>

FDIC FOIA Logs:  
Fiscal Year 2022 Quarters 2, 3 and 4; Fiscal Year 2023 Quarter 1  
<https://www.fdic.gov/foia/readingroom.html>

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?

**Answer:** Yes, the FDIC has taken steps to make information posted on its website more useful to the public.

4. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

**Answer:** The FDIC web specialists periodically review and ensure the FDIC's FOIA webpages, including its Reading Room, are easily navigable. The FDIC does have several open, machine-readable databases on its website that are very useful to the public. Examples of these are BankFind (the searchable FDIC Institution Directory), Institution Financial Reports, and Deposit Market Share Reports. These can be found at <https://www.fdic.gov/resources/data-tools/>

5. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

**Answer:** The FOIA Group collaborates with the FDIC web specialists when making proactive disclosures. The web specialists work with the FOIA Group staff to make sure the documents are 508 compliant and post them to the appropriate location in our FOIA Reading Room. The other FDIC divisions post their own proactive disclosures and keep the FOIA Group updated for reporting purposes.

6. Optional -- Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

**Answer:** The FDIC continues to actively strive to become even more transparent, and we are not aware of any challenges to this effort. In the next reporting period, we look forward to having fully implemented our new FOIA case management system's enhanced analytics, reporting, and automation capabilities, which will make it easier for the FOIA Group to identify frequently requested records for proactive disclosure.

#### SECTION IV: STEPS TAKE TO GREATER UTILIZE TECHNOLOGY

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

**Answer:** Yes, over the past year, the FOIA Group has worked to seamlessly implement the successful transition from our legacy system to our new FOIA case management system. Before and during this time of transition, the FOIA Group worked on the development, testing, training, and fine tuning of the new system. As noted above, the new system was the result of implementing the FDIC's FOIA Software Modernization Project, which was classified as an FDIC agency-wide Performance Goal and we met this Goal.

2. Please briefly describe any new types of technology your agency uses to support your FOIA program.

**Answer:** During this reporting period, the FDIC implemented a new FOIA case management system built on an e-discovery platform. The FOIA Group benefits greatly from this new system due to its: (1) ability to handle large volumes of data, (2) deduplication features, (3) enhanced automatic redaction functions, (4) customizable workflows and layouts, and (5) improved analytics and reporting capabilities. Our new system also enables users to upload and process records that may be responsive to a request in a much more effective and efficient manner. In December 2022, we successfully deployed the ability for FOIA requesters to provide identity verification seamlessly through our FOIA case management system via Login.gov. When requests are submitted through the portal, requesters are able to securely verify their identity without sending personal information through unsecure means. The FDIC was one of the first agencies to implement this secure identity system for FOIA purposes.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar



tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

**Answer:** The FDIC implemented a new FOIA case management system built on an e-discovery platform. During the uploading and ingesting of records, the e-discovery component of our system allows users to automate portions of the redaction process. For example, the system provides the capability to redact records using methods such as: (1) copying redactions from similar requests, (2) copying redactions from established redaction templates, (3) automatically redacting text based on keyword searches, and (4) redacting text based on established keyword lists. Users can also save a redacted document as a template that can be used to redact other similar documents. Another feature of the system that helps streamline the processing of records is the capability to attach redacted records from other requests to new requests that are seeking the same records. Because the FDIC has not had sufficient time to track metrics on the benefits of our new system, we are currently unable to provide an estimate of how much time and financial resources have been saved since implementing the technology.

4. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

**Answer:** The FDIC web specialists periodically review and ensure the proper functioning of the FDIC's FOIA website, including that its Reading Room is easily navigable. The FDIC's Annual Webpage Review, which included a review of our FOIA website, was completed in December 2022 and did not identify any areas of concern.

5. Did all four of your agency's quarterly reports for Fiscal Year 2022 appear on FOIA.gov?

**Answer:** Yes

6. If your agency did not successfully post all quarterly reports on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2023.

**Answer:** N/A

7. 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 2021 Annual FOIA Report and, if available, for your agency's Fiscal Year 2022 Annual FOIA Report.

**Answer:** <https://www.fdic.gov/foia/reports.html>

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

**Answer:** Yes

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

**Answer:** The FOIA Group has developed and is continuing to develop, as the need arises, succinct reference guides that are used as training materials for our new FOIA case management system. Additionally, we have developed and are continuing to develop SOPs to provide quick and streamlined instructions for using the system. The FOIA Group also provides bi-weekly training to our FOIA Program Office Coordinators on how to use different features of the system. The FOIA Coordinators are given an opportunity to ask questions during each training session.

#### SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS

The Attorney General's FOIA Guidelines instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

##### **A. Remove Barriers to Access**

1. Has your agency established alternative means of access to first-party requested records outside of the FOIA process?

**Answer:** No. The FDIC receives many FOIA requests from customers of both active and inactive banks. These requests are usually processed under both the FOIA and Privacy Act. Additionally, we receive first-party requests for Office of Inspector General records, security background investigations, and personnel files. Because these frequently requested records are protected under the Privacy Act, the FDIC cannot use alternative means of access outside of the FOIA/Privacy Act process.

2. If yes, please provide examples. If no, please indicate why not. Please also indicate if you do not know.

**Answer:** There are no opportunities at this time to develop alternative means of access. The FOIA Group is the most experienced FDIC staff to work with these records.

##### **B. Timeliness**

3. For Fiscal Year 2022, 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 2022 Annual FOIA Report.

**Answer:** The FDIC's average number of days for adjudicating requests for expedited processing was 6.44 days for Fiscal Year 2022.

4. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2022 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

**Answer:** N/A

5. Does your agency utilize a separate track for simple requests?

**Answer:** Yes

6. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2022?

**Answer:** Yes, the average number of days to process simple track requests was 15.21 days in Fiscal Year 2022.

7. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

**Answer:** N/A

8. Please provide the percentage of requests processed by your agency in Fiscal Year 2022 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

**Answer:** 43.8% of requests processed by the FDIC in Fiscal Year 2022 were placed in the simple track (220 out of 502).

9. 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?

**Answer:** N/A

### **C. Backlogs**

#### **BACKLOGGED REQUESTS**

10. If your agency had a backlog of requests at the close of Fiscal Year 2022, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

**Answer:** Yes, the FDIC's Fiscal Year 2022 backlog (8) decreased compared with our backlog reported at the end of Fiscal Year 2021 (24).

11. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2022 than it did during Fiscal Year 2021?

**Answer:** N/A

12. If your agency's request backlog increased during Fiscal Year 2022, please 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)
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible

**Answer:** N/A

13. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

**Answer:** The percentage of requests received in Fiscal Year 2022 that make up the backlog reported at the end of Fiscal Year 2022 is 1.62% (8 out of 494).

## **BACKLOGGED APPEALS**

14. If your agency had a backlog of appeals at the close of Fiscal Year 2022, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2021?

**Answer:** Yes, the FDIC's Fiscal Year 2022 backlog of appeals (0) decreased compared with our backlog appeal reported at the end of Fiscal Year 2021 (1).

15. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2022 than it did during Fiscal Year 2021?

**Answer:** N/A

16. If your agency's appeal backlog increased during Fiscal Year 2022, please 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)
- Impact of COVID-19 and workplace and safety precautions
- Any other reasons – please briefly describe or provide examples when possible

**Answer:** N/A

17. 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 2022. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2022 and/or has no appeal backlog, please answer with "N/A."

**Answer:** N/A

#### **D. Backlog Reduction Plans**

18. In the 2022 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2021 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 2022?

**Answer:** N/A

19. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2022, please explain your agency's plan to reduce this backlog during Fiscal Year 2023.

**Answer:** N/A

#### **E. Reducing the Age of Requests, Appeals, and Consultations**

##### **TEN OLDEST REQUESTS**

20. In Fiscal Year 2022, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2021 Annual FOIA Report?

**Answer:** No

21. 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 2021 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

**Answer:** Eight (8)

22. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

**Answer:** N/A

### **TEN OLDEST APPEALS**

23. In Fiscal Year 2022, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2021 Annual FOIA Report?

**Answer:** Yes

24. 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 2021 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

**Answer:** N/A

25. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

**Answer:** N/A

### **TEN OLDEST CONSULTATIONS**

26. In Fiscal Year 2022, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2021 Annual FOIA Report?

**Answer:** Yes

27. 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 2021 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

**Answer:** N/A

### **ADDITIONAL INFORMATION REGARDING TEN OLDEST**

28. If your agency did not close its ten oldest pending requests, appeals, or consultations, please explain why and provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2023.

**Answer:** We were unable to close two of our ten oldest requests (Answer 21) primarily due to resource challenges and the need for consultation from another agency. Since the end of Fiscal Year 2022, we closed one of the above-noted ten oldest requests from Fiscal Year 2021 and now only have one remaining. With regard to that remaining request, we continue to communicate with the agency that has substantial interest in the requested information, and we plan to resolve this request as efficiently as possible.

#### **F. Additional Information about FOIA Processing**

29. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency’s overall FOIA request processing and backlog. If possible, please indicate the number and nature of requests subject to litigation, common causes leading to litigation, and any other information to illustrate the impact of litigation on your overall FOIA administration.

**Answer:** Yes, the FDIC had one FOIA request that became the subject of litigation during the reporting period. This matter did not heavily impact the FDIC’s overall processing and backlog and the case has been dismissed.

30. How many requests during Fiscal Year 2022 involved unusual circumstances as defined by the FOIA? (This information is available in your agency’s FY22 raw data).

**Answer:** The FDIC had 87 requests that involved unusual circumstances during Fiscal Year 2022.