

2018 Chief FOIA Officer Report
Federal Deposit Insurance Corporation
Charles Yi, General Counsel and Chief FOIA Officer
March 2017 - March 2018

Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the DOJ's 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?

Answer: Yes.

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

Answer: All members of the FDIC's FOIA/Privacy Act Group ("FOIA Group") attended substantive FOIA training in this past year. This past April, the FDIC FOIA Group hosted a FOIA Coordinators Conference for both our FOIA Group staff and the subject matter experts that we work with in the FDIC Divisions. The conference included an overview of the FOIA exemptions, training regarding the FOIA Improvement Act of 2016, and an extensive discussion of the foreseeable harm standards for each exemption. In addition, several members of the FOIA Group completed the Department of Justice e-Learning modules *FOIA Training for Professionals* and *FOIA Training for All Employees*, and attended the DOJ two-day course on *FOIA for Attorneys and Access Professionals*.

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.

Answer: 100% of the FOIA Group's professionals and staff attended substantive FOIA training during the reporting period. A significant percentage (80%+) of staff not in the FOIA Group but who have FOIA responsibilities in their respective divisions or offices also attended training in the form of the FOIA Coordinators Conference referred to above.

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.

Answer: 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?

Answer: The FDIC FOIA Group did not engage in any specific outreach programs with the requester community or open government groups. Nevertheless, all of the FDIC FOIA Group staff frequently communicate with requesters, as needed concerning particular FOIA requests, and with members of the general public who may call with more general disclosure questions.

C. Other Initiatives

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

Answer: The Department of Justice’s e-Learning module, *FOIA Training for All Employees*, has been made available online to all employees through the FDIC’s Corporate University. Additionally, members of the FDIC FOIA Group staff conducted interdivisional training of non-FOIA professionals on the changes made to the FOIA under the FOIA Improvement Act of 2016.

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

Answer: N/A.

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

The DOJ’s 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.

1. For Fiscal Year 2017, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2017 Annual FOIA Report.

Answer: The FDIC's average number of days for adjudicating requests for expedited processing was 6.03 days for Fiscal Year 2017.

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.

Answer: 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.

Answer: The FDIC did not conduct a self-directed self-assessment of its FOIA program, however, the FDIC did provide responses to a GAO audit in Fiscal Year 2017 that included questions related to workflows and track management and reviewing and updating processing procedures.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison during Fiscal Year 2017.

Answer: Requesters sought the assistance from the FDIC's FOIA Public Liaison an estimated 19 times during Fiscal Year 2017.

5. *OPTIONAL:* If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimates for each track.

Answer: Currently, FOIAxpress, the FOIA software used by the FDIC FOIA Group, does not keep track of this figure for reporting purposes. However, we performed a sampling of requests and, based on this sample, we estimate that we processed an average of 37.52 pages per request.

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

Answer: The FOIA Group produces regular reports which are used to monitor the processing of requests. In addition, the FOIA Group routinely reviews its automated FOIA system (FOIAxpress) to ensure the proper processing of requests. Among other things, all FOIA correspondence and responsive records are now maintained electronically to improve efficiency. Most recently, the General Counsel in his role as Chief FOIA Officer issued a memorandum to FDIC division and office directors (referred to above) in which he noted certain procedural adjustments relating to FOIA request processing that were being adopted in the interest of greater efficiency and effectiveness in the handling of FOIA requests.

Section III: Steps Taken to Increase Proactive Disclosures

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

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.

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

Answer: Information posted on the FDIC's website during the reporting period (calendar year 2017) includes:

Quarterly Banking Profiles:

First Quarter 2017 - <https://www.fdic.gov/bank/analytical/qbp/2017mar/>

Second Quarter 2017 - <https://www.fdic.gov/bank/analytical/qbp/2017jun/>

Third Quarter 2017 - <https://www.fdic.gov/bank/analytical/qbp/2017sep/>

FDIC Consumer News:

Fall 2017 - <https://www.fdic.gov/consumers/consumer/news/index.html>

Summer 2017 - <https://www.fdic.gov/consumers/consumer/news/cnsum17/>

Chief Financial Officer's (CFO) Reports to the Board:

First Quarter 2017 –

<https://www.fdic.gov/about/strategic/corporate/cfo-report-1stqtr-17/index.html>

Second Quarter 2017 –

<https://www.fdic.gov/about/strategic/corporate/cfo-report-2ndqtr-17/index.html>

Documents considered at FDIC Board of Director's open meetings:

March 21, 2017 - https://www.fdic.gov/news/board/2017/2017-03-21_notice.html

July 18, 2017 - <https://www.fdic.gov/news/board/2017/2017-07-18-notice.html>

September 27, 2017 - <https://www.fdic.gov/news/board/2017/2017-09-27-notice.html>

December 19, 2017 - <https://www.fdic.gov/news/board/2017/2017-12-19-notice.html>

FDIC Chairman's Calendars:

Third Quarter 2016 - https://www.fdic.gov/about/freedom/chairman_3q_2016.pdf

Fourth Quarter 2016 - https://www.fdic.gov/about/freedom/chairman_4q_2016.pdf

FDIC Vice Chairman's Calendars:

First Quarter 2017 - <https://www.fdic.gov/about/freedom/vice-chairman-1stquarter2017.pdf>

Second Quarter 2017 - <https://www.fdic.gov/about/freedom/vice-chairman-2ndquarter2017.pdf>

FDIC FOIA Log:

Fiscal Year 2016 - <https://www.fdic.gov/about/freedom/fdicfoialogfy2016.pdf>

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

Answer: Yes. The FDIC often issues press releases to publicize or highlight releases of information. For example, the FDIC issues a press release to inform the public when it announces the list of orders of administrative enforcement actions taken against banks and individuals during the preceding month. Press releases issued during 2017 are available at <https://www.fdic.gov/news/news/press/2017/>.

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.

Answer: The FDIC's Office of Communications uses the GovDelivery network to distribute emailed announcements to any users of the FDIC's public website who opt to receive a wide variety of the FDIC's latest news and other public information releases on a wide variety of topics. This subscription service provides the convenience of direct information delivery to the public, thereby making the FDIC's public website even more accessible and user friendly. Below is a list of the high-level FDIC categories of public information currently available for direct email subscription:

- Bank Data & Statistics
- Bank/Regulatory Policy
- Consumers
- Corporate Plans & Reports
- Failed Bank Information
- News & Events

- Research & Analysis
- Real Estate Sales

The FDIC's web link for obtaining subscriptions via the GovDelivery network is at:
<https://service.govdelivery.com/accounts/USFDIC/subscriber/new>.

5. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

Answer: The FDIC continues to use its website, social media, webcasts, podcasts, and publications to proactively make information available to the general public. An email subscription service, RSS feeds, as well as the FDIC pages on Facebook and Twitter allow the public to receive many different alerts, including news releases, Financial Institution Letters, consumer updates, statistical publications and other information.

Section IV: Steps Taken to Greater Utilize Technology

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

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.

1. Has your agency identified any best practices to leverage technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents? If yes, please describe the best practices, the types of technology used and the impact on your agency's processing.

Answer: Yes. For example, within the FDIC, we can now use a dedicated FOIA SharePoint site, as needed, to share responsive records between offices and to collaborate on FOIA processing. All FOIA Group staff and other FDIC personnel who assist the FOIA Group have recently been issued laptop computers to facilitate teleworking. The FOIA Group also uses electronic communication exclusively with all requesters who have provided email addresses, including the sending of responsive records in electronic formats. Since 2010, the FOIA Group has been using FOIAxpress to process and track all FOIA requests. All of these examples have allowed the FDIC to leverage technology to facilitate the agency's overall FOIA efficiency.

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

Answer: Yes. All four of the FDIC's quarterly FOIA reports for Fiscal Year 2017 were successfully posted online.

3. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2018.

Answer: N/A.

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

Answer: <https://www.fdic.gov/about/freedom/reports.html>

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

Answer: The FOIA Group recently successfully implemented the latest version of FOIAxpress software on the FDIC's network.

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

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 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?

Answer: Yes.

2. If so, for your agency overall in Fiscal Year 2017, was the average number of days to process simple requests twenty working days or fewer?

Answer: Yes. The average number of days to process simple requests in Fiscal Year 2017 was 8.93 days.

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

Answer: 52% of requests processed by the FDIC in Fiscal Year 2017 were placed in the simple track (230 out of 442).

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?

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

BACKLOGGED REQUESTS

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

Answer: Yes. The FDIC had a backlog of 1 request at the end of Fiscal Year 2017. The backlog decreased from 4 requests reported as backlogged at the end of Fiscal Year 2016.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A.

7. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2017.

Answer: The percentage of requests that make up the backlog reported at the end of Fiscal Year 2017 is 0.22% (1 out of 440).

BACKLOGGED APPEALS

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

Answer: The FDIC reported no backlogged appeals at the end of either Fiscal Year 2016 or Fiscal Year 2017.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: N/A

10. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2017. If your agency did not receive any appeals in Fiscal Year 2017 and/or has no appeal backlog, please answer with "N/A."

Answer: N/A.

C. Backlog Reduction Plans

11. In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did 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 2017?

Answer: N/A.

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

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

TEN OLDEST REQUESTS

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

Answer: Yes. In Fiscal Year 2017, the FDIC closed the ten oldest requests that were reported pending in its Fiscal Year 2016 Annual FOIA Report.

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

Answer: 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?

Answer: None of the FDIC's ten oldest requests were withdrawn by the requester.

TEN OLDEST APPEALS

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

Answer: Yes. In Fiscal Year 2017, the FDIC closed the one appeal that was reported as pending at the end of Fiscal Year 2016 in its Fiscal Year 2016 Annual FOIA Report.

17. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: N/A.

TEN OLDEST CONSULTATIONS

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

Answer: The FDIC had no consultations pending at the end of Fiscal Year 2016.

19. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2016 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: 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 2016.

Answer: N/A.

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.

Answer: 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 2018.

Answer: N/A.

F. Success Stories

Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you

would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer: In Fiscal Year 2017 the FDIC FOIA Group developed and hosted a FOIA Coordinators Conference for both our FOIA Group staff and FDIC Division FOIA Coordinators. The training included an overview of the FOIA exemptions, a session summarizing the FOIA Improvement Act of 2016, and an extensive discussion of the foreseeable harm standards for each exemption. The FOIA staff also distributed guidelines for the foreseeable harm analyses that each coordinator must conduct when withholding information.