

**2015 Chief FOIA Officer Report
Federal Deposit Insurance Corporation
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March 2014 - 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.

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.

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. Two agency-wide trainings on the FOIA were held for attorneys and paralegals with attorney CLE credits provided. More recently, the FDIC sponsored a DOJ OIP training on Exemptions 4 and 5 in which FOIA staff from other federal banking agencies also attended.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA trainings during this reporting period.

Answer: 100% of the FDIC's FOIA/Privacy Act Group professionals and staff attended substantive FOIA training during the reporting period. In addition, employees from six of the FDIC's divisions involved in the processing of most of the FOIA requests received by the FDIC attended such training.

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.

Answer: The FDIC hosted a presentation by OIP on FOIA Exemptions 4 and 5 during the reporting period.

Discretionary Releases:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

Answer: Yes. The FDIC makes discretionary disclosures of exempt records pursuant to 12 C.F.R. § 309.6 (“Part 309”), which provides that under appropriate circumstances, discretionary disclosures may be authorized by the Director of the FDIC division having primary authority over the exempt records in question, or by the Chairman, the Board of Directors, the General Counsel, or their designees.

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

Answer: Yes. The FDIC made discretionary disclosures of exempt documents in response to Part 309 requests during the reporting period.

6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP’s guidance on implementing the President’s and Attorney General’s FOIA Memoranda.

Answer: FOIA exemptions that would have covered the information that was released as a matter of discretion include Exemptions 2 and 5.

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Answer: The FDIC made discretionary releases of information contained in internal correspondence including staff memoranda to the FDIC’s Board of Directors, operational manuals and a personnel directive that could have been withheld under the deliberative process privilege. Certain information released in the personnel directive could also have been withheld under Exemption 2.

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

Answer: N/A.

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.

Answer: N/A.

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. You should also include any additional information that describes your agency's efforts in this area.

Processing Procedures:

1. For Fiscal Year 2014, 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 2014 Annual FOIA Report.

Answer: The FDIC took an average of 3.47 days to adjudicate requests for expedited processing in Fiscal Year 2014.

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.

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? See OIP Guidance, “*Notifying Requesters of the Mediation Services Offered by OGIS.*” (July 9, 2010)

Answer: No, we have existing internal procedures which obviate the need to advise requesters of OGIS mediation services in denial letters or in administrative appeal decisions. As indicated on the FDIC’s FOIA website, the FDIC’s Ombudsman has been designated as the FDIC’s FOIA Public Liaison and is available to serve as a supervisory official to whom a FOIA requester can raise concerns about the service received from the FOIA/PA Group. The FDIC also has its own ADR program that is available to implement the full spectrum of ADR processes in internal and external conflict management.

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? See OIP Guidance,

“The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.” (Nov. 22, 2013)

Answer: Yes. The FDIC customarily provides a breakdown of FOIA fees, assessed in accordance with the FDIC’s published fee schedule, to the requesters. Fee estimates and invoices, if applicable, are then provided to each requester for search, review and/or duplication costs.

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

Answer: Yes. In such situations, the FDIC will provide a more detailed explanation of the various components of the estimate specifying, for example, the number of hours anticipated for search time, the cost per hour of search and the level of the staff who will conduct the search.

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.

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 to ensure the proper processing of requests. Among other things, all FOIA correspondence and responsive records are now maintained electronically to improve efficiency. Also, FOIA staff is evaluated under a pay-for-performance system with regularly scheduled meetings to assess their FOIA skills and to maintain overall quality control.

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 distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency’s process or system.

Answer: Yes. The FOIA Group routinely reviews FOIA requests to determine whether requested records should be posted on the FDIC’s website. The FOIA Group also utilizes

its FOIA software to identify records that are of interest to the public by analyzing, for example, trends in the nature of requests.

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

Answer: Yes. The FOIA Group works with personnel in the FDIC division(s) with primary authority over records that have been identified as candidates for posting to insure that proactive disclosure of such records is appropriate and that exempt information that should not be disclosed is protected.

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

Answer: When a FOIA request is received, the FDIC's FOIA/Privacy Act Group uses its FOIA processing software to identify previous requests for the same or similar records. If it is determined that multiple requests for records subject to disclosure under the FOIA have been received, the documents are deemed "frequently requested" and are posted on the FDIC's website or otherwise made available for public inspection and copying.

4. 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 includes:

Documents considered at FDIC Board of Director's meetings –

https://www.fdic.gov/news/board/2014/2014-09-03_notice.html

https://www.fdic.gov/news/board/2014/2014-07-15_notice.html

https://www.fdic.gov/news/board/2014/2014-04-08_notice.html

Summary of Deposits (SOD) - <https://www2.fdic.gov/sod/>

FDIC Consumer News

Summer 2014 - <https://www.fdic.gov/consumers/consumer/news/cnsum14/>

Spring 2014 - <https://www.fdic.gov/consumers/consumer/news/cnspr14/>

Quarterly Banking Profile - <https://www2.fdic.gov/qbp/index.asp>

Minority Depository Institution Study

https://www.fdic.gov/bank/analytical/quarterly/2014_vol8_3/mdi_study.pdf

Supervisory Insights - Summer 2014

<https://www.fdic.gov/regulations/examinations/supervisory/insights/index.html>

Community Banks Remain Resilient Amid Industry Consolidation

https://www.fdic.gov/bank/analytical/quarterly/2014_vol8_2/article.pdf

Chief Financial Officer's (CFO) Report to the Board

1st Quarter 2014 - https://www.fdic.gov/about/strategic/corporate/cfo_report_1stqtr_14/index.html

4th Quarter 2013 - https://www.fdic.gov/about/strategic/corporate/cfo_report_4thqtr_13/

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

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 the President's FOIA Memorandum was the direction to “use modern technology to inform citizens about what is known and done by their Government.” In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

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?

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

2. If yes, please provide examples of such improvements.

Answer: In addition to posting material discussed in open sessions of the FDIC Board of Directors meetings on the FDIC's website, the meetings themselves may be viewed live online and recordings of these sessions are subsequently made available to the public.

See:

<https://fdic.primetime.mediaplatform.com/#!/channel/1232003497484/Board+Meetings>

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

Answer: No. The FDIC has not encountered any challenges that make it difficult to post records online.

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

Answer: N/A.

Other Initiatives:

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

Answer: Yes. All four of the FDIC's quarterly FOIA reports for Fiscal Year 2014 were successfully posted online.

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.

Answer: N/A.

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "*The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications.*" (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

Answer: Yes. The FDIC's preferred method of communication with requesters is e-mail. However, the FDIC can also communicate online with those requesters who submit their requests electronically through the FDIC's FOIA public access web portal.

8. If your agency does not communicate electronically with requests as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See *id.*

Answer: N/A.

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 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 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

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

Answer: The average number of days to process simple requests in Fiscal Year 2014 was 6.48 days.

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

Answer: 72% of the requests processed by the FDIC in Fiscal Year 2014 were simple requests.

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.

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 the backlog reported at the end of Fiscal Year 2013?

Answer: The FDIC had no backlog of requests at the close of Fiscal Year 2013 or at the close of Fiscal Year 2014.

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

Answer: N/A.

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?

Answer: The FDIC had no backlog of appeals at the close of Fiscal Year 2013 or at the close 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.”

Answer: N/A.

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 that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: Yes. All ten of the FDIC’s oldest requests from Fiscal Year 2013 were closed during the first quarter of Fiscal Year 2014.

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.

Answer: N/A

11. 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:

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?

Answer: The FDIC ended Fiscal Year 2013 with two pending appeals. Both appeals were closed in October 2013.

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.

Answer: N/A.

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?

Answer: The FDIC had only one pending consultation at the end of Fiscal Year 2013. This consultation was closed in October 2013.

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

Answer: N/A.

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

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

Answer: N/A.

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.

Answer: N/A.

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.

Answer: N/A.

Use of FOIA’s Law Enforcement “Exclusions”

In order to increase transparency regarding the use of the FOIA’s statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to “treat the records as not subject to the requirements of [the FOIA],” 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

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

Answer: No. The FDIC did not invoke a statutory exclusion during Fiscal Year 2014.

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

Answer: N/A.