

**2024 Chief FOIA Officer Report  
Federal Deposit Insurance Corporation  
Harrel Pettway, General Counsel and Chief FOIA Officer  
March 2023 - March 2024**

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS

The guiding principle underlying the Attorney General’s 2022 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 FOIA Group is continuing to work on creating standard operating procedures (SOP) specific to the FDIC’s FOIA 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. Additionally, the FDIC is currently exploring the opportunity to offer FOIA training at FDIC regional offices and division/office all-hands meetings so that every employee at the FDIC understands the basics and importance of the FOIA. Additionally, we are in the process of updating and revising the FDIC’s internal FOIA webpage to further enhance and clarify the FOIA and the FOIA process for all FDIC employees.

**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. If your agency tracks *Glomar* responses, please provide:

- the number of times your agency issued a full or partial *Glomar* response (separate full and partial if possible);

**Answer:** Five (5) times

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

**Answer:** Exemption 6 – Five (5) times; Exemption 7(C) – Five (5) times

6. If your agency does not track the use of *Glomar* responses, are you planning to track this information in the future?

**Answer:** N/A

7. 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:** The FOIA Group staff are disclosing quarterly FOIA logs and disclosing the Chairman's and Vice Chairman's calendars on a regular basis upon receipt. Additionally, the FDIC's FOIA case management 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.

## SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

The Attorney General's 2022 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 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 and counsel regularly give briefings on the FOIA to incoming FDIC staff, such as new Legal Division employees. The FOIA Group supervisor or counsel also conducted training during this reporting period for various FDIC offices and divisions, including for staff in the Division of Complex Institution Supervision & Resolution, for staff in the Chief Information Officer Organization, and at a conference for Legal Division executives and managers. 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 biweekly trainings for FDIC FOIA coordinators, who do not work in the FOIA Group, on how to use different features of the FOIA case management system. The FOIA coordinators are given an opportunity to ask both system-related questions and substantive FOIA-related questions that they may have during each training session. Finally, the FOIA Group conducts semiannual training seminars for FOIA coordinators that are approximately three hours long. These trainings consist of both substantive FOIA issues and administrative procedures. The FOIA Group plans to have FOIA trainings in February/March and September of each year moving forward and will cover different topics, including recent FOIA developments, and will include question and answer sessions.

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 on the following topics: “Processing a FOIA Request from Start to Finish,” “Procedural Requirements and Fees,” “Administrative Appeals, FOIA Compliance and Customer Service,” “Continuing FOIA Education,” “Best Practices Workshop,” “Exemption 4 and Exemption 5,” and “Privacy Considerations.” Additionally, some of the FOIA Group attended the American Society of Access Professionals (ASAP) training conference in July 2023. FOIA Group members and FOIA coordinators also attended the semiannual FOIA training seminars, described above.

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 FOIA Group supervisor and counsel continue to give presentations to incoming employees, including new Legal Division employees, on FOIA basics and their role in the FOIA process. The FOIA Group supervisor or counsel also conducted training during this reporting period for various FDIC offices and divisions, including for staff in the Division of Complex Institution Supervision & Resolution, for staff in the Chief Information Officer Organization, and at a conference for Legal Division executives and managers. Senior leaders of these various offices and divisions 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 intranet. As mentioned above, the FOIA Group provides biweekly trainings for FOIA coordinators, who do not work in the FOIA Group, on how to use different features of the FOIA case management system. Finally, as noted above, the FOIA Group has instituted semiannual training seminars for FOIA coordinators.

## **B. Outreach**

7. 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 FDIC 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.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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 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.

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 2023 (please provide a total number or an estimate of the number for the agency overall).

**Answer:** Requesters sought assistance from the FDIC's FOIA Public Liaison 15 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. FDIC management has been proactive and supportive of FOIA operations given the continued increase in the number of requests received during the reporting period and the volume of documents responsive to each request. To assist with current and anticipated demands, FDIC management granted the FOIA Group approval to hire one additional permanent FOIA attorney and two additional government information specialists on a two-year term basis (with the option of extending those positions for an additional two years). Management also allowed attorneys from another Legal Division unit to assist in records reviews for particularly sensitive requests after necessary training was provided. The FOIA Group continued to utilize the resources available through the FDIC's Honors Attorney Program. During the reporting period, we hosted three honors attorneys who rotated through the FOIA Group and worked on both technical and legal matters. The FOIA Group also began hosting a detailee in May 2023 and extended that detail throughout the reporting period. Both the honors attorneys and detailee have been great assets to the Group. Lastly, the FOIA Group is actively working with the FDIC's Legal Information Technology Unit on operating the case management system, searching for records, and processing records.

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:** The FDIC's FOIA case management system allows the FOIA Group 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, requests in litigation, and requests assigned to certain program offices. Additionally, FDIC's system allows data to be presented in pie charts and graphs, which allows management to quickly review the workload of each government information specialist, 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 to monitor the timely and proper processing of requests. Additionally, the FOIA Group staff continues to work closely with the FDIC case management system's support staff to resolve any glitches or connectivity issues that may occur with the system.

### SECTION III: PROACTIVE DISCLOSURES

The Attorney General's 2022 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 FOIA Group utilized a new capability in the case management system that assists in identifying and tracking frequently requested records for posting. Additionally, the FDIC's case management system now provides FOIA coordinators with the option to maintain and input their own (a)(2) postings throughout the year. This allows the FOIA coordinators to provide us with a more accurate accounting of their (a)(2) postings by entering this data in real-time. The FOIA Group provided training on this new feature of the case management system at one of our semiannual FOIA training seminars, described above.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

**Answer:** The length of time it takes to post proactive disclosures varies within the FDIC. Within the FOIA Group, proactive disclosures of frequently released records are posted as soon as practicable after the FDIC's case management system flags a record(s) as being released three (3) times. Additional agency (a)(2) postings are implemented by the respective divisions and offices that created and maintained the records. Accordingly, the timeframes in which those postings are made vary by division and office but are completed as soon as practicable, and within a reasonable time period after the record is available.

3. Does your agency post logs of its FOIA requests?

**Answer:** Yes

- If so, what information is contained in the logs?

**Answer:** The FDIC's FOIA logs contain a list of all closed requests during the reported period (by quarter) and provide the request number, organization name, received date, description of records sought, disposition, and closed date.

- Are they posted in CSV format? If not, what format are they posted in?

**Answer:** No. The FOIA Logs are posted in PDF format.

4. 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 proactively posted on the FDIC's website during the reporting period includes:

FDIC Chairman's Calendars:

Monthly through March 2023

<https://www.fdic.gov/foia/chairmanschedule.html>

FDIC Vice Chairman's Calendars:

Monthly through November 2023

<https://www.fdic.gov/foia/vicechairmanschedule.html>

FDIC FOIA Logs:

Fiscal Year 2023 Quarters 1 and 2

<https://www.fdic.gov/foia/readingroom.html>

Updated sections to the Risk Management Manual of Examination Policies:

<https://www.fdic.gov/resources/supervision-and-examinations/examination-policies-manual/>

Ten new Professional Liability Settlement Agreements through August 24, 2023:

<https://www.fdic.gov/foia/plsa/index.html>

Ten Section 18(a)(4) Misrepresentation Cease and Desist Letters through August 4, 2023:

<https://www.fdic.gov/resources/regulations/laws/section-18a4-of-fdi-act/index.html>

Three new Section 19 Prohibition Letters through August 9, 2023:

<https://www.fdic.gov/resources/regulations/laws/section-19-of-fdi-act/index.html>

Sixty-two new Financial Institution Letters through December 13, 2022:

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

Quarterly Banking Profiles through September 30, 2023:

<https://www.fdic.gov/analysis/quarterly-banking-profile/index.html>

FDIC Consumer News through December 2023:

<https://www.fdic.gov/resources/consumers/consumer-news/consumer-news-list.html>

Documents considered at FDIC Board of Director's open meetings through November 16, 2023:

<https://www.fdic.gov/news/board-matters/index.html>

5. 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.

6. 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 that the FDIC's FOIA webpages, including the 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/>

7. 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 ensure that the documents are 508 compliant and post them to the appropriate location in the FDIC's FOIA Reading Room. The other FDIC divisions and offices post their own proactive disclosures and keep the FOIA Group updated for reporting purposes.

8. 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 greater utilization of the FDIC's case management system's capability in identifying and tracking 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](https://www.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, the FOIA Group continues to further explore the capabilities of the FDIC's case management system and refine the system to more efficiently process requests. Given that requests doubled during the reporting period, we further explored and heavily relied upon the resources available to us within the FDIC's E-Discovery Group (eDG), including analytics. Specifically, the eDG provided assistance with conducting expansive FOIA searches, refining those searches, and analyzing the resulting data before transmitting it to the FOIA Group for ultimate review and disposition.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

**Answer:** During the reporting period, we increased the use of the analytics feature within the FDIC's case management system. Running analytics on voluminous sets of emails has allowed us to de-duplicate emails and capture all-inclusive email threads, both of which can greatly reduce the final volume of records to review. Similarly, we increased the use of various e-discovery platforms through the services of the FDIC's eDG. Use of such platforms helped to aid in extensive searches and reviews in response to the influx of FOIA requests we received seeking records related to the recent bank failures.

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's case management system, built on an e-discovery platform, 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. The FDIC's case management system also has the ability to run analytics on voluminous set of emails. This allows us to de-duplicate emails and capture all-inclusive email threads, both of which can greatly reduce the final volume of records to review. Lastly, we have leveraged the use of various e-discovery systems and tools in the search, review, and analysis stages of processing requests. The use of the noted technologies both separately and in combination have been a great asset to the FOIA Group and substantially decreased the final volume of responsive

records. Overall, these technologies have saved our Group a significant amount of initial review time.

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 the Reading Room is easily navigable. The FDIC's Annual Webpage Review, which included a review of FDIC's FOIA website, was completed in the fall of 2023. All necessary modifications were made to make it as informative and user-friendly as possible.

5. Did all four of your agency's quarterly reports for Fiscal Year 2023 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 2024.

**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 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 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, SOPs, and FAQs to serve as both training and instructional resources for the FDIC's FOIA case management system. Additionally, we are in the process of updating and revising the FDIC's internal FOIA webpage to further enhance and clarify the FOIA and the FOIA process for all FDIC employees. Lastly, the FOIA Group continues to provide biweekly

office hours to FOIA coordinators regarding the case management system. This provides FOIA coordinators with any updates to the system and an opportunity to ask questions.

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

The Attorney General's 2022 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 typical FOIA or Privacy Act 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 many of 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 plans at this time to develop alternative means of access. The FOIA Group is the most experienced FDIC staff to work with these records.

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

**Answer:** The FOIA Group is in the beginning stages of exploring, where appropriate, various automation tools to improve our level of service to requesters in lieu of the need to submit a formal FOIA request.

### **B. Timeliness**

4. For Fiscal Year 2023, 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 2023 Annual FOIA Report.

**Answer:** The FDIC's average number of days for adjudicating requests for expedited processing was 4.6 days.

5. 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 2023 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

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

**Answer:** Yes

7. 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 2023?

**Answer:** Yes, the average number of days to process simple track requests was 16.93 days.

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

**Answer:** N/A

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 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:** 49.3% of requests processed by the FDIC were placed in the simple track (338 out of 685).

10. 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**

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, 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 2022?

**Answer:** No, the FDIC's Fiscal Year 2023 backlog (123) increased compared with the FDIC's backlog reported at the end of Fiscal Year 2022 (8).

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022?

**Answer:** Yes, the FDIC processed 183 more requests during Fiscal Year 2023 than in Fiscal Year 2022.

13. If your agency's request backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

**Answer:** The FDIC's backlog increased during Fiscal Year 2023 primarily due to the almost doubling of requests, many of which also increased in complexity and records volume, without any corresponding increase in staffing. In Fiscal Year 2022 we received 494 requests; however, in Fiscal Year 2023, we received 826 requests. From mid-March 2023 on, the new requests we received were primarily focused on recent failures of First Republic Bank, Signature Bank and Silicon Valley Bank. These requests are extremely complex, have a voluminous amount of records requiring detailed review and analysis, and necessitate multiple levels of intra-agency coordination and consultation. Lastly, halfway through the fiscal year, a government information specialist retired, which increased individual workloads and processing times.

14. 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 2023. 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 that make up the backlog reported at the end of Fiscal Year 2023 is 14.9% (123 out of 826).

## **BACKLOGGED APPEALS**

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, 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 2022?

**Answer:** The FDIC had zero (0) backlogs of appeals for both Fiscal Year 2022 and Fiscal Year 2023.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

**Answer:** N/A

17. If your agency's appeal backlog increased during Fiscal Year 2023, 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)
- Litigation
- Any other reasons – please briefly describe or provide examples when possible

**Answer:** N/A

18. 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 2023. 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**

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 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 2023?

**Answer:** N/A

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

**Answer:** N/A

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

### **TEN OLDEST REQUESTS**

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report?

**Answer:** No

22. 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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

**Answer:** Seven (7)

23. 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**

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

**Answer:** N/A

25. 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 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

**Answer:** N/A

26. 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**

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

**Answer:** Yes

28. 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 2022 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**

29. 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 2024.

**Answer:** We were unable to close three of the FDIC’s ten oldest requests (Answer 21) primarily due to resource challenges and the volume of records at issue with the requests. Additionally, two of these three requests require both intra- and interagency consultations with multiple offices or agencies that have a substantial interest in the requested information. Since we have received approval for additional staff, we intend to prioritize these requests to complete the processing as quickly as possible.

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

30. 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 has twelve (12) FOIA requests that became the subject of litigation during the reporting period. These matters have heavily impacted the FDIC’s overall FOIA request processing and backlog. Specifically, the majority of these matters pertain to records involving the bank failures described above. These requests are very complex by nature, have resulted in a voluminous amount of records requiring review and analysis, and necessitate multiple levels of intra-agency coordination and consultation. There have been resource challenges in efforts to de-duplicate and further narrow a very voluminous amount of records requiring review. As stated above, we were also understaffed during the reporting period, which further constrained overall processing speeds.