# 2015 Chief FOIA Officer Report
# National Credit Union Administration
# Lara Rodriguez, Deputy General Counsel

## Section I: Steps Taken 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?** Staff attended Department of Justice training and third-party vendor training on this subject.

**2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.** The FOIA officer and service center staff all attended substantive FOIA training during this reporting period.

**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.** The agency made substantive FOIA training available to all agency FOIA staff this year and plans to ensure such training continues to be offered to them.

### Discretionary Releases:

**4. Does your agency have a distinct process or system in place to review records for discretionary release?** NCUA follows the Attorney General's FOIA Guidelines encouraging agencies to make discretionary disclosures when information technically falls within an exemption but its disclosure is not prohibited by law and disclosure would not cause harm; and, to make partial disclosures whenever full disclosures are not possible. The FOIA Service Center regularly considers whether discretionary release is appropriate. The Chief FOIA Officer makes the determination if discretionary release is appropriate, after considering the applicable interests and determining the interests served by disclosure outweigh other relevant interests.

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

**6. What exemption(s) would have covered the material released as a matter of discretion?** The deliberative process and attorney client exemption under (b)(5) and the supervisory related exemption under (b)(8) of the FOIA would have covered the released information.

**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.** As a matter of discretion, the agency released types of information where the public has a strong interest in the explanation of an agency policy and the agency's deliberative process. Specific examples from this reporting year include an outside counsel legal opinion and a list of home-based credit unions.

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

## Other Initiatives:

**9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.** The agency continues to use its website and other means proactively to make information available to the general public and its stakeholders. For example, open Board meetings are recorded and posted on the internet. In addition, live video of the meetings is now streamed online, starting with the February 19, 2015 meeting. Live captioning also is provided during each meeting for the hearing-impaired.

Virtual town hall meetings are hosted to communicate agency plans, address concerns, and respond to questions from participants; and agency YouTube videos are posted at http://www.youtube.com/ncuachannel, including regular Economic Updates; agency Facebook, LinkedIn, and Twitter pages are utilized to communicate news updates; and web resource and information pages are added to the agency website, such as information for consumers at www.mycreditunion.gov, in English and Spanish languages. In addition, interest rate data is posted on the agency's website at http://www.ncua.gov/DataApps/Pages/CUBNKMain.aspx.

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

## 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.** Two days.

**2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.** Not applicable.

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

**4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester?** Yes. When assessing fees, our agency gives the requester an invoice with an itemized breakdown of fees. This includes a categorical breakdown with the amount of charges for certain types of actions performed by staff. The amounts are based upon the hourly rates posted on the FOIA fee schedule at http://www.ncua.gov/Resources/FOIA/Pages/FOIAFee.aspx, and are consistent with the agency regulations at 12 C.F.R. §792.19 - §792.26.

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

## Other Initiatives:

**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.** The agency monitors overall response times and year-to-year changes in volumes, request complexity, and response times. It uses a dedicated software system to track the processing of FOIA requests; dedicated IT staff provides system support; ongoing training is used to improve understanding of FOIA coverage and responsiveness; and processes are reviewed to identify potential issues and opportunities for improvement.

## Section III: Steps Taken to Increase Proactive Disclosures

## Posting Material:

**1. Does your agency have a distinct process or system in place to identify records for proactive disclosure?** Yes. **If so, please describe your agency's process or system.** Each time FOIA staff processes requests, it considers the nature of the information requested and, if appropriate, discusses possibilities for proactive disclosures with the office of record.

**2. Does your process or system involve any collaboration with agency staff outside the FOIA office?** Yes. **If so, describe this interaction.** If appropriate, FOIA staff discusses possibilities for proactive disclosures with the office of record.

**3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.** When a record is requested multiple times, FOIA staff identifies the record and informs the Chief FOIA Officer that it should be posted online. The FOIA staff then sends the record to the agency webmaster to post it at http://www.ncua.gov/Resources/FOIA/Pages/FOIAFrequent.aspx.

**4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.** Examples of posted material include: a legal opinion from Paul Hastings, LLP at http://www.ncua.gov/News/Documents/NW20150120Opinion.pdf; a list of home-

based credit unions (as of 04-11-2014) at http://www.ncua.gov/Resources/Documents/FOIA/HomeBasedCreditUnions.pdf; and Questions for Michael J. McKenna, NCUA General Counsel, from Congressman Peter King (04/08/2014) at http://www.ncua.gov/Resources/Documents/FOIA/RegulatoryReview-McKenna-Questions-for-the-Record20140408.pdf .

### Other Initiatives:

**5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.** The agency continues increasingly to make proactive disclosures, especially through the agency website and at public board meetings. For example, the agency posted on its website both budget and overhead transfer rate review information, including more than is required to be made available to the public, at http://www.ncua.gov/about/Pages/budget.aspx. The agency disclosed 2015 board member office budgets and broke down budget categories for agency offices.

## Section IV: Steps Taken to Greater Utilize Technology

### Making Material Posted Online More Useful:

**1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?** Yes.

**2. If yes, please provide examples of such improvements.** The agency continually posts useful new information on its website solely for consumers, www.mycreditunion.gov, such as information about home buying, resources for service members, and a game for young people called "Hit the Road" at http://www.mycreditunion.gov/Pages/pocket-cents-game.aspx. The agency also posted a new Strive to Thrive field of membership video, a video series on how to fight fraud, and cyber security resources. In addition, the agency website provides links to most requested information as a resource for credit unions. The agency also offers free webinars for the public on financial topics. The agency continually solicits public comments and suggestions for improving communication at PlainWriting@ncua.gov.

**3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?** No.

**4. If so, please briefly explain what those challenges are.** Not applicable.

### Other Initiatives:

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

**6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.** Not applicable.

**7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?** Yes. **If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?** E-mail.

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

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

### Simple Track:

**1. Does your agency utilize a separate track for simple requests?** 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?** Yes.

**3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.** 53%.

**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?** Not applicable.

### Backlogs:

**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?** Not applicable.

**6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014.** Not applicable.

**BACKLOGGED APPEALS**

**7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?** Not applicable.

**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.** Not applicable.

## Status of Ten Oldest Requests, Appeals, and Consultations:

**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?** Yes.

**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.** Not applicable. **If you had less than ten total oldest requests to close, please indicate that.** The agency closed the two total oldest requests to close.

**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.** None. **If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?** Not applicable.

**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?** Yes.

**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.** Not applicable. **If you had less than ten total oldest appeals to close, please indicate that.** The agency closed the one total oldest appeal to close.

**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?** Yes.

**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.** Not applicable. **If you had less than ten total oldest consultations to close, please indicate that.** The agency had no consultations to close.

## 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.** Not applicable.

**17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.** Not applicable.

**18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2015.** Not applicable.

## Use of the FOIA's Law Enforcement Exclusions

**Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?** No.

**If so, please provide the total number of times exclusions were invoked.** Not applicable.