

2014 Chief FOIA Officer Report

**National Credit Union Administration
Lara Rodriguez, Deputy General Counsel**

Section I: Steps Taken to Apply the Presumption of Openness

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

FOIA Training:

- 1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?** FOIA staff conducted training for new supervisors and new FOIA staff regarding the agency's FOIA responsibilities. FOIA staff also conducted training for several agency offices and divisions.
- 2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.** FOIA staff held approximately seven training sessions covering aspects of how to respond to a FOIA service center request for records and commonly used exemptions. We estimate approximately 120 staff attended.
- 3. Did your FOIA professionals attend any FOIA training 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.
- 4. Provide an estimate of the percentage of your FOIA professionals 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.
- 5. OIP has issued guidance that [every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year](#). Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.** The agency makes substantive FOIA training available to all agency FOIA staff each year and plans to ensure such training continues to be offered to them.

Outreach:

- 6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.** Staff engaged in outreach and dialogue with interested possible requesters about the agency's FOIA administration at a few different outside meetings during the year, such as with attorneys and trade associations.

Discretionary Disclosures:

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

- 7. Does your agency have a formal process in place to review records for discretionary release? Yes. If so, please briefly describe this process.** 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. **If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.** Not applicable.

8. **During the reporting period did your agency make any discretionary releases of otherwise exempt information?** Yes.
9. **What exemptions would have covered the information that was 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.
10. **Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.** 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.
11. **If your agency was not able to make any discretionary releases of information, please explain why.** Not applicable.

Other Initiatives:

12. **Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? Yes. If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.** Not applicable.
13. **Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.** 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; virtual town hall meetings are hosted to communicate agency plans, address concerns, and respond to questions from participants; agency YouTube videos are posted at <http://www.youtube.com/ncuachannel>, including regular Economic Updates; agency Facebook and Twitter pages are utilized to communicate news updates; and web resource and information pages are added to the agency website, such as new 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

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

Personnel:

1. **Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?** Not applicable. The agency has no professionals working full-time on FOIA and the Privacy Act. In addition, the agency has no eligible staff for conversion as outlined in OPM's Memorandum for Chief Human Capital Officers, dated March 9, 2012.

2. **If not, what proportion of personnel has been converted to the new job series?** Not applicable.
3. **If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?** Not applicable.

Processing Procedures:

4. **For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing?** No. **If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.** The agency will take steps so that requests for expedited processing are adjudicated within 10 calendar days or less, such as by applying additional staff hours to facilitate a response to an expedited request.
5. **Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations.** Yes. **If so, please describe those steps.** FOIA staff informally met with various other agencies' FOIA staffs and consulted with them on certain categories of records involving shared equities as appropriate.

Requester Services:

6. **Do you use e-mail or other electronic means to communicate with requesters when feasible?** Yes.
7. **Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?** Yes.
8. **Describe 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.** 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

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. **Do your FOIA professionals have a system in place to identify records for proactive disclosures?** Yes.
2. **If so, describe the system that is in place.** Each time FOIA staff process requests, they consider the nature of the information requested and, if appropriate, discuss possibilities for proactive disclosures with the office of record.

- 3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.** Examples of posted material include: information on bonds comprising corporate credit unions' legacy assets at <http://www.ncua.gov/Resources/FOIA/Pages/FOIACorporate.aspx>; and an updated list of Visa Credit Card Holders at <http://www.ncua.gov/Resources/FOIA/Pages/FOIACardholders.aspx>.

Making Posted Material More Useful:

- 4. 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, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.? Yes.**
- 5. If so, provide examples of such improvements.** The agency created a new online search engine to help get answers to frequently asked questions called FAQ+Results, at <http://www.ncua.gov/Resources/OSCUI/Pages/Results.aspx?q=>. The agency posted a new compilation of cybersecurity resources at <http://www.ncua.gov/Resources/Pages/cyber-security-resources.aspx> and released a new and improved insurance coverage estimator at <http://www.mycreditunion.gov/estimator/Pages/index.html>. The agency continually solicits public comments and suggestions for improving communication at PlainWriting@ncua.gov.
- 6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? Yes. If so, was social media utilized? Yes.**
- 7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? No. If so, please briefly explain what those challenges are.** Not applicable.
- 8. Describe any other steps taken to increase proactive disclosures at your agency.** As referenced in Section I.13., the agency increasingly makes proactive disclosures through various social media.

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. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

Online tracking of FOIA requests:

- 1. Can a FOIA requester track the status of his/her request electronically? No.**
- 2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums? Not applicable.**
- 3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.** Not applicable.
- 4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request? Not applicable.**

5. **If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?** Agency staff continually reviews the cost and benefit to acquire and provide this capability. **If not, please explain why.** Not applicable.

Use of technology to facilitate processing of requests:

6. **Beyond using technology to redact documents, is your agency taking steps to utilize more advanced 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?** Not at this time.
7. **If so, describe the technological improvements being made.** Not applicable.
8. **Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?** FOIA staff this past year attended briefings held by the software vendor where advanced capabilities, such as de-duplication, were displayed and explained. Staff will consider employing new tools if and when the dedicated software system incorporates such new capabilities.

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

For the figures required in this Section, please use those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.

Simple Track Requests:

1. **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.**
 - a. **Does your agency utilize a separate track for simple requests?** Yes.
 - b. **If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?** Yes.
 - c. **If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?** Not applicable.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

2. **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. 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

- a. **If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012? Not applicable.**
- b. **If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012? Not applicable.**

Ten Oldest Requests

- c. **In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012? Yes.**
- d. **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 2012 Annual FOIA Report. Not applicable. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests. Not applicable.**

Ten Oldest Appeals

- e. **In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012? Yes.**
- f. **If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report. Not applicable.**

Ten Oldest Consultations

- g. **In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012? Yes.**
- h. **If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report. Not applicable.**

Reasons for Any Backlogs:

- 3. **If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. Not applicable.**

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

- 4. **If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014. Not applicable.**

5. **If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.** Not applicable.

Interim Responses:

OIP has issued **guidance** encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. **Does your agency have a system in place to provide interim responses to requesters when appropriate?** Yes.
7. **If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.** Not applicable.

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 during Fiscal Year 2013?** No.
2. **If so, what was the total number of times exclusions were invoked?** Not applicable.

Spotlight on Success

Out of all the activities undertaken by your agency since March 2013 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, these agency **success stories** will be highlighted during Sunshine Week by OIP. 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 a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report. The agency since 2013 has undertaken to increase transparency and improve FOIA administration by proactively providing information of interest to the credit union industry and general public through multi-media communication initiatives, such as those by the Office of Consumer Protection (OCP) and Office of Small Credit Union Initiatives (OSCUI). These include videos, webinars, live boot-camps, and e-newsletters. Success stories are the following recent OCP and OSCUI videos:

- Small Credit Unions + Service = SUCCESS (02/12/2014);
- OCP's three-part Consumer Protection Update (11/05/2013);
- OSCUI Consulting Program (11/05/2013);
- Supervisory Committee Training Modules (09/13/2013); and
- OSCUI: Navigating for You (05/30/2013).

See <http://www.ncua.gov/Resources/OSCUI/Pages/Videos.aspx> and <http://www.ncua.gov/News/Pages/NW20131105ConsumerProtection.aspx>.