



**Chief FOIA Officer Report  
March 2013**

## 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.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

**Yes.** HUD held monthly teleconferences calls with the Regional and Field offices on topics such as developing HQ/Region/Field FOIA SOP's, fee and fee waivers, designations of FOIA Public Liaisons, overdue FOIA request in the regional and field offices, cost estimates, upcoming FOIA training for Regional and Field offices. HUD's New York Office FOIA Standard Operating Procedure members met with Headquarters personnel and discussed FOIA guidelines, training, and FOIA concerns. The Philadelphia, Baltimore, D.C., Pittsburgh, Louisville, Seattle, and Richmond offices provided FOIA, and FMS2 training to their prospective office staffs. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

**Yes.** Headquarters FOIA staff attended courses provided by the Department of Justice: The FOIA Litigation Seminar, FOIA for Attorneys and Access Professionals, Privacy Act for FOIA/Access Professionals, and FOIA Exemption 2 training.

2. Did your agency make any discretionary releases of otherwise exempt information? **Yes.**

3. What exemptions would have covered the information that was released as a matter of discretion? **Exemption 5.**

4. Provide a narrative description, or some examples of, the types of information that was released as a matter of discretion? HUD's Seattle Regional Office and the Philadelphia Office made discretionary releases of information for requests for multi-family and public housing project files, to include routing sheets, concurrence sheets, internal emails and draft documents. In addition, HUD Headquarters and Field Office staff continues to release drafts, handwritten notes, and emails that would have customarily been withheld under Exemption 5 of the FOIA.

5. Describe any other initiative undertaken by your agency to ensure that the presumption of openness is being applied.

To ensure openness and consistency, Office of the Executive Secretariat staff, in conjunction with the Office of General Counsel, updated the Department's FOIA regulations from those used in 2007. The revised regulations will provide a cornerstone for training that will be provided to liaisons across the Department.

## **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 its system for responding to requests 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.

1. Do FOIA professionals within your agency have sufficient IT support?  
**Yes.** HUD utilizes a FOIA Management Tracking system to process FOIA's and receives IT support through in-house IT specialists, the IT Help Desk, and referrals to the contractor that maintains the FOIA Management Tracking system to ensure proficiency and assistance with all technical issues.
2. Do FOIA professionals work with your agency's Open Government Team? **Yes.**
3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration?  
**Yes.** The director of the Executive Secretariat has produced an annual assessment of the staffing needs for FOIA for the past three years. The senior management of HUD continues to meet regularly to assess the staffing needs of the function and look for ways to meet the needs of the office.

HUD has established a committee to assess FOIA administration and processing in the field to recommend greater efficiencies through improved FOIA guidance and streamlined Standard Operating Procedures. HUD's Office of Field Policy and Management (FPM) has undertaken the project in collaboration and consultation with the Office of the Executive Secretariat, Office of General Counsel, Office of the Chief Information Officer, Public Affairs, and other relevant components in the agency.

4. 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, streamlining consultations, eliminating redundancy, etc.  
The management of the FOIA function changed in 2010 and an assessment of staffing, workload, backlogs, and efficiency was conducted and has continued each year. An upgraded tracking system was acquired and all users were trained on its applications in fiscal 2013. The new system has afforded greater productivity and efficiency, however, it was not enough to supplant the loss of 3 FOIA specialists. An outside contractor provides support and maintenance for the system and can remotely resolve any problems. HUD's Help Desk troubleshoots as well. Functional efficiency is currently being monitored.  
The Alaska office has created a controlled correspondence team which negotiates further improvements to the existing FOIA processing system and implementing a more streamlined approach to processing FOIA requests, including providing multiple layers of coverage for team members, along with clearly defining roles and responsibilities.

### 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 2012 to March 2013). 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.

1. Provide examples of material that your agency has posted this past year. In FY 2012, HUD's Atlanta office posted PHA Rental Integrity Monitoring (RIM) review reports. We continue to monitor multiple requests to identify information that can be proactively posted on the departmental website. Additionally, HUD's Seattle office maintains an online MS Excel database of current Region X project information that can be accessed by the public on HUD's website. The database includes summary information for all properties serviced by the Region X Hub, including property address, owner and agent information, numbers of units, and client group.
2. 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 the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.? **Yes.**
3. If so, provide examples of such improvements?

HUD improved the search capabilities by acquiring upgraded tracking systems and by revising/streamlining its standard operating procedures to incorporate the capabilities of this system. The updated SOP's were posted on the Department's website. Posting this information has decreased the number of requests that the Seattle Multifamily housing office has received. The Anchorage Field Office conducts a quarterly review of all posted web links and information on the web pages. The Philadelphia Regional Office solicits feedback from the public through customer service surveys.

4. Describe any other steps taken to increase proactive disclosures at your agency.

There were no other actions taken in 2013.

## 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. In 2010 and 2011, agencies reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2013, as we did in 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency? **Yes.**
2. If your agency is decentralized, can FOIA requests be made electronically to all components of your agency? **Yes.**

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?  
**Yes**, if the requester has submitted their request through HUD's Public Access Link (PAL) which is available for FOIA requests submitted to Headquarters.
4. If so, 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.  
The requester is provided a temporary case number. Once the request has been entered into the system, the requester is provided a permanent case number, received date, status of the request, and whether fees are due on the request.
5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request? **Yes.**
6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? **N/A.**

Use of technology to facilitate processing of requests:

7. 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?

HUD will test an upgrade that is due in August, 2013, for the existing FOIA Management tracking system that HUD utilizes.

8. If so, describe the technological improvements being made.  
HUD's automated FOIA tracking system has been upgraded to increase user access and improve functionality in certain FOIA request management and reporting capabilities. Beyond that, we will not be able to describe the improvements until the upgrade is received.

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

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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.
  - a. Does your agency utilize a separate track for simple requests? Yes.
  - b. If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer? No.
  - 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? **N/A.**
2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.
  - a. If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011? **No, increased.**
  - b. If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011? **No, increased.**

- c. In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011? **Yes.**
  - d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011? **Yes.**
3. If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests? **Yes.**
- b. Was the lack of a reduction in the request backlog caused by a loss of staff? **Yes.**
- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received? **Yes.**
- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?  
Although the upgraded tracking system afforded increased productivity once in place, there was considerable downtime related to training all users on how to effectively use the system.

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals? **Yes.**
  - b. Was the lack of a reduction in the appeal backlog caused by a loss of staff? **Yes.**
  - c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received? Hard to say. Please see answer 3.d.
  - d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?  
There was a personnel change in the General Counsel’s Office resulting in new attorneys reviewing FOIA requests. The new attorneys had a learning curve to get through.
4. 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. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim

response was provided during the fiscal year, even though the request was not finally closed.

The Department had 3 voluminous cases for which rolling interim responses were provided and now have been closed. Currently, HUD has 1 voluminous case where interim responses are being provided and the case is open.

### **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 2012? **No**
2. If so, what was the total number of times exclusions were invoked? **N/A.**

### **Spotlight on Success**

Out of all the activities undertaken by your agency since March 2012 to increase transparency and improve FOIA administration, describe here 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.

HUD's New York Office received a FOIA request from the NYS Attorney General's Office that required an expedited response due to an internal investigation being conducted. In order to accommodate the requester and expedite the response, FPM, OGC, and the program area coordinated an on-site inspection of records requested, resulting in a quick closure (less than ten days) and a very satisfied client.