



**OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT**  
1700 G STREET NW WASHINGTON DC 20552 (202) 414-3800

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January 31, 2007

Ms. Pamela Maida  
U.S. Department of Justice  
Office of Information and Privacy  
Flag Building, Suite 570  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Ms. Maida:

Enclosed is a copy of the Office of Federal Housing Enterprise Oversight's (OFHEO) FY2006 Annual Report on Freedom of Information Act (FOIA) activities during FY2006, as required by FOIA (5 U.S.C. §552(e)). This is OFHEO's 12<sup>th</sup> Annual Report on the FOIA.

As required, OFHEO will be placing this report on its website at [www.ofheo.gov/ofheoreports.asp](http://www.ofheo.gov/ofheoreports.asp).

OFHEO continues to be firmly committed to the FOIA, to its underlying principles, and to its faithful implementation in accordance with sound legal bases as established by the Administration and Congress.

If you have questions regarding the report, please call me at 202-414-6425.

Sincerely,

Jeanne Ratchford  
FOIA Officer  
jratchford@ofheo.gov

Office of Federal Housing Enterprise Oversight  
Annual Freedom of Information Act (FOIA) Report – FY 2006

I. Basic Information Regarding Report

- A. Contact person – Jeanne F. Ratchford, FOIA Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW, 4<sup>th</sup> Floor, Washington, DC 20552. Telephone: 202-414-6425. E-mail: [foia.office@ofheo.gov](mailto:foia.office@ofheo.gov)
- B. Electronic address for report on the World Wide Web - [www.ofheo.gov/ofheoreports.asp](http://www.ofheo.gov/ofheoreports.asp)
- C. For a paper copy of this report, contact – Jeanne F. Ratchford, FOIA Officer, at the above address.

II. How to Make a FOIA Request

To make a FOIA request, see “Releasing Information” at 12 CFR 1703 at <http://www.ofheo.gov/media/pdf/release.pdf> and <http://www.ofheo.gov/foia.asp>

- A. FOIA requests are received by the FOIA Officer – Jeanne F. Ratchford, FOIA Officer, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW, 4<sup>th</sup> Floor, Washington, DC 20552. Telephone: 202-414-6425. E-mail: [foia.office@ofheo.gov](mailto:foia.office@ofheo.gov).
- B. Agency response time ranges from 1 – 20 days.
- C. Brief description of why some requests were not granted:
  - 1. Requests were not granted if no records exist for requested information.
  - 2. Requests were not granted if records were exempt in their entirety from disclosure.
  - 3. Requests were not granted if they were not records maintained by the agency.

### III. Definitions of Terms and Acronyms Used in the Report

#### A. Agency-specific acronyms or other terms.

OFHEO – Office of Federal Housing Enterprise Oversight

#### B. Basic terms, expressed in common terminology.

1. FOIA/PA request -- Freedom of Information Act/Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request -- a request to a federal agency for access to records under the Freedom of Information Act.

3. Appeal -- a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the Freedom of Information Act, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal -- a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.

5. Multi-track processing -- a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first out basis. A requester who has an urgent need for records may request expedited processing (see below).

6. Expedited processing -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.

7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (nonexpedited) track based on the volume and/or simplicity of records requested.

8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.

9. Grant -- an agency decision to disclose all records in full in response to a FOIA request.

10. Partial grant -- an agency decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entireties, but to withhold others in whole or in part.

11. Denial -- an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).

13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 statute -- a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

#### IV. Exemption 3 Statutes

##### A. List of Exemption 3 statutes relied on by OFHEO during FY06 - 1

1. Brief description of type(s) of information withheld under each statute – release of contractor proposals (41 U.S.C. §253b(m))
2. Statement of whether a court has upheld the use of each statute. If so, then cite example – 41 USC 253b(m) Hornbostel v. U.S. Department of the Interior, 305 F. Supp. 2d 21 (D.D.C. 2003)

#### V. Initial FOIA/PA Access Requests

##### A. Numbers of Initial Requests:

1. Number of requests pending as of FY05 - 2
2. Number of requests received during FY06 - 29
3. Number of requests processed during current FY06 - 31
4. Number of requests pending as of end of FY06 - 0

##### B. Disposition of Initial Requests:

1. Number of total grants - 6
2. Number of partial grants - 11
3. Number of denials - 4
  - a. Number of times each FOIA exemption used (counting each exemption once per request)
    - (1) Exemption 1 - 0
    - (2) Exemption 2 - 2
    - (3) Exemption 3 - 1
    - (4) Exemption 4 - 6

- (5) Exemption 5 – 5
- (6) Exemption 6 – 8
- (7) Exemption 7(A) - 0
- (8) Exemption 7(B) - 0
- (9) Exemption 7(C) - 0
- (10) Exemption 7(D) – 0
- (11) Exemption 7(E) - 0
- (12) Exemption 7(F) - 0
- (13) Exemption 8 - 8
- (14) Exemption 9 - 0

4. Other reasons for nondisclosure (total): 10

- a. no records - 5
- b. referrals - 1
- c. request withdrawn - 3
- d. fee-related reason - 0
- e. records not reasonably described - 0
- f. not a proper FOIA request for some other reason - 0
- g. not an agency record - 1
- h. duplicate request - 0
- i. other (specify) – 0

## VI. Appeals of Initial Denials of FOIA/IP Requests

### A. Numbers of appeals.

1. Number of appeals received during FY06 - 7
2. Number of appeals processed during FY06 - 7

### B. Disposition of appeals.

1. Number completely upheld - 6
2. Number partially reversed – 1
3. Number completely reversed - 0
  - a. number of times each FOIA exemption used (counting each exemption once per appeal):
    - (1) Exemption 1 - 0
    - (2) Exemption 2 - 1
    - (3) Exemption 3 - 0
    - (4) Exemption 4 - 0
    - (5) Exemption 5 - 4
    - (6) Exemption 6 - 2
    - (7) Exemption 7(A) - 0
    - (8) Exemption 7(B) - 0
    - (9) Exemption 7(C) - 0
    - (10) Exemption 7(D) - 0
    - (11) Exemption 7(E) - 0

(12) Exemption 7(F) - **0**

(13) Exemption 8 - **4**

(14) Exemption 9 - **0**

4. Other reasons for nondisclosure (total) - **0**

a. no records - **0**

b. referrals - **0**

c. request withdrawn - **0**

d. fee-related reason - **0**

e. records not reasonably described - **0**

f. not a proper FOIA request for some other reason - **0**

g. not an agency record - **0**

h. duplicate request - **0**

i. other (specify) - **0**

## VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year.

1. Requests (OFHEO does not use multiple tracks).

a. number of requests processed - **27**

b. median number of days to process - **15**

2. Complex requests (specify for any and all tracks used).

a. number of requests processed - **0**



- b. median number of days to process - **0**
- 3. Requests accorded expedited processing.
  - a. number of requests processed - **4**
  - b. median number of days to process – **11**
- B. Status of pending requests.
  - 1. Number of requests pending as of end FY06 - **0**
  - 2. Median number of days that such requests were pending as of that date - **0**

VIII. Comparisons with Previous Year(s) (Optional)

- A. Comparison of numbers of requests received – **126 (FY05) vs. 29 (FY06)**  
**77% decrease**
- B. Comparison of numbers of requests processed – **124 (FY05) vs. 31 (FY06)**  
**75% decrease**
- C. Comparison of median numbers of days requests were pending as of end of the fiscal year – **30 (FY05) vs. 0 (FY06)**
- D. Other statistics significant to agency – **OFHEO received and granted four requests for expedited processing in FY06.**
- E. Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public (e.g., backlog-reduction efforts; specification of average number of hours per processed request; training activities; public availability of new categories of records) – **OFHEO processes FOIA's on a first in – first out basis and does not multi-track.**

IX. Costs/FOIA Staffing

A. Staffing levels.

1. Number of full-time FOIA personnel - 0
2. Number of personnel with part-time or occasional FOIA duties (in total work years) - **.80**
3. Total number of personnel (in work-years) - **.80**

B. Total costs (including staff and all resources)

1. FOIA processing (including appeals) - **\$77,000.00**
2. Litigation-related activities (estimated) - **\$0**
3. Total costs - **\$77,000.00**
4. Comparison with previous year(s) - **FY05 \$96,000 vs. FY06 \$77,000.00**

C. Statement of additional resources needed for FOIA compliance – N/A

X. Fees

- A. Total amount of fees collected by agency for processing requests – **\$16,214.74**
- B. Percentage of total costs – **21%**

XI. FOIA Regulations (Including Fee Schedule)

The OFHEO regulation is available at [www.ofheo.gov/media/pdf/release.pdf](http://www.ofheo.gov/media/pdf/release.pdf).

The OFHEO fee schedule is available at [www.ofheo.gov/foia.asp](http://www.ofheo.gov/foia.asp).

XII. Report on Implementation of the Freedom of Information Act (FOIA) Executive Order 13392

A. Description of supplementation/modification of agency improvement plan (if applicable).

Not applicable. OFHEO has not identified a need to modify or supplement its FOIA improvement plan.

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area.

It is the goal of OFHEO to affirmatively, cooperatively, and effectively serve the public through the Freedom of Information Act. OFHEO continues to make progress on implementation of its FOIA improvement plan. The following three areas were targeted for improvement by December 31, 2006.

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Purchase of equipment needed

OFHEO's performance in meeting the milestones for these improvement areas are summarized below.

- Affirmative disclosure under subsection (a)(2)

OFHEO reviewed the content of its website and concluded that it currently makes publicly available through its website (<http://www.ofheo.gov>) news releases, speeches, testimony, orders, regulations and policy guidance, reports, and other information required to be disclosed pursuant to subsection (a)(2). The entire website is being updated and new procedures include a quarterly review of content to ensure records described in subsection (a)(2) are posted in a timely manner.

- Proactive disclosure of information

OFHEO is committed to making public information available on a voluntary basis. The FOIA Officer works with the Office of External Relations to identify information that if posted would reduce the need for the public to make a FOIA request. For example, when OFHEO

received several FOIA requests for the name and contact number of procurement officials, that information was added to the agency's website.

- Purchase of equipment needed

OFHEO reviewed the manner in which FOIA's were processed and identified efficiency that could be gained by the purchase of a dedicated scanner. In addition to using the scanner to respond to requests electronically, FOIA staff is scanning FOIA files from prior years in order to store and access the records more efficiently. In addition the electronic files provide a backup copy for continuity of operations planning.

Additionally, progress has been made in the improvement areas scheduled for completion by December 31, 2007 and after December 31, 2007 as stated in the plan.

- FOIA website
- Use of automation -redaction process
- Training needs
- FOIA reference guide

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable).

OFHEO has not completed the milestone of educating employees to ensure compliance with affirmative disclosure requirements. OFHEO's website is being substantially revised and it is expected that it will be completed within the next few months. Educating employees will be completed this quarter.

D. Additional narrative statements regarding other executive order-related activities (optional).

E. Concise descriptions of FOIA exemptions.

Agencies have an obligation to release responsive records unless an exemption applies. Nine exemptions to the FOIA authorize federal agencies to withhold information. as follows:

1. Exemption (b)(1) protects material (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are properly classified pursuant to such Executive order.
2. Exemption (b)(2) exempts from mandatory disclosure records related solely to the internal personnel rules and practices of an agency.
3. Exemption (b)(3) exempts records concerning matters that are specifically exempted from disclosure by statute (other than FOIA).
4. Exemption (b)(4) exempts records that contain trade secrets and commercial or financial information obtained from a person that is privileged or confidential.
5. Exemption (b)(5) exempts inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with an agency.
6. Exemption (b)(6) exempts personnel and medical files and similar files the disclosure would constitute a clearly unwarranted invasion of personal privacy.
7. Exemption (b)(7) exempts from disclosure records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:
  - (A) could reasonably be expected to interfere with enforcement proceedings;
  - (B) would deprive a person of a right to a fair trial or impartial adjudication;
  - (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;
  - (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;
  - (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(F) could reasonably be expected to endanger the life or physical safety of any individual.

8. Exemption (b)(8) exempts from disclosure records contained in or related to an examination, operation, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

9. Exemption (b)(9) exempts from disclosure records containing geological and geophysical information and data concerning wells (including maps).

F. Additional statistics:

1. Time range of requests pending, by date of request (or where applicable, by date of referral from another agency).

December 27, 2006 to January 19, 2007

2. Time range of consultations pending with other agencies at this time.

There are no consultations pending with other agencies.

G. Agency improvement plan (in current form)

OFHEO's FOIA Improvement Plan is available at  
<http://www.ofheo.gov/media/pdf/fy06FOIARandiplan.pdf>