<u>NCUA FOIA Program Review Under Executive Order 13392</u>

I.      Introduction.

This review of current FOIA practices is prepared as required by Executive Order (EO) 13392, "Improving Agency Disclosure of Information."  The EO reminds agencies that they are providing a service to the public in their FOIA programs.  It requires federal agencies to respond courteously and appropriately to FOIA requests and to provide the public with citizen-centered ways to learn about the FOIA process, agency records that are publicly available on the agency website or elsewhere and how to get information about the status of a FOIA request.  The EO also requires agencies to develop plans for improving efficiency and obtaining measurable improvements to FOIA programs to meet the Administration's policy goals.

This report, as prescribed in the EO focuses on five areas:  first, an evaluation of NCUA's administration of the FOIA; second, NCUA's practices for informing the public regarding the FOIA process; third, NCUA's use of information technology in responding to FOIA requests, and its practices regarding expedited and multi-track processing; fourth, NCUA's practices for making public information available on its website and otherwise; and fifth, ways to reduce or eliminate any backlog.

II.     Evaluation of NCUA Administration of the FOIA.

NCUA is a small agency of fewer than 1000 employees nationwide.  It insures credit union member accounts in the event of liquidation and is responsible for the supervision and regulation of federally-insured credit unions throughout the U.S. and its territories.  It recently centralized its FOIA program, after many years in which staff in its five, formerly six, regional offices received and processed requests for records originated at the regional level.  Over the past 5-year period it has received on average 302 new FOIA requests per year.  The number of requests it receives annually is trending downward, while the complexity of the documents requested has generally increased.  Reflecting several years of increasing competition in the financial services industry, NCUA has received a growing number of FOIA requests for credit union applications related to chartering, many of which are voluminous and contain sensitive commercial information and confidential supervisory information.

NCUA has increased its expenditure of resources on FOIA compliance over the past five years.  In addition to labor costs reported in annual FOIA reports, NCUA has incurred start-up and maintenance costs for the purchase of computer software for electronic tracking and processing of FOIA requests.  An analysis of

agency spending on FOIA, on a per request basis, is represented on the chart below.

| Fiscal Year | Net Staff/Resource Costs* | Other Costs** | No. of Requests | Cost Per Request |
|---|---|---|---|---|
| 2005 | $183,511.95 | $28,215.23 | 240 | $882.19 |
| 2004 | $170,066.85 | $28,215.23 | 241 | $822.74 |
| 2003 | $241,233.80 | $41,769.88 | 312 | $907.06 |
| 2002 | $173,772.29 | | 350 | $496.49 |
| 2001 | $168.619.05 | | 391 | $431.25 |

* Net Staff/Resource Costs are the total costs reflected in annual FOIA reports reduced by the amount of fees recovered from requesters.
**Other costs include software start-up/maintenance fees and payments to outside contractors.

NCUA, in general, responds to requests within the statutory time frame. Complex requests seeking voluminous, sensitive commercial information often require staff to provide the submitter notice of the request and an opportunity to comment on the releasability of the records.  In some instances, this process causes the agency to provide the records beyond the 20-day limit, however, at the same time NCUA provides the submitter notice, it also advises the FOIA requester of the process and the possibility of delay.

   III.     Practices For Informing the Public Regarding the FOIA Process

NCUA has an extensive Internet website in which it provides detailed information about the FOIA process.  It includes instructions for submitting FOIA requests, the length of time it takes to receive records and the costs involved.  It has also published a *Handbook for Obtaining Information under the FOIA*, which is available electronically on the NCUA website as well as in hard copy.

In correspondence with FOIA requesters, NCUA routinely provides a telephone number so that requesters may contact FOIA staff directly with any questions about their requests or the documents they receive.

   IV.     NCUA Use of Information Technology in Responding to FOIA
           Requests; Practices With Respect to Expedited Processing, and;
           Implementation of Multi-track Processing.

NCUA makes liberal use of information technology in its FOIA compliance program.  In 2003, it invested in computer software for tracking and processing FOIA requests electronically.  The software program has essentially made it possible for NCUA staff to process a FOIA request from beginning to end in a paperless fashion.  On its Internet website, NCUA invites requesters to submit

FOIA requests via e-mail.  It established a separate e-mail address, FOIA@ncua.gov, for the ease of requesters.   The software program allows FOIA staff to redact documents online and maintain electronic files for FOIA requests. NCUA also invites requesters to provide their e-mail addresses so that documents can be sent electronically as well.

NCUA has received very few requests for expedited processing in the past five years.  This may be due to the fact that it responds to most requests within the statutory time frame.

NCUA has established a multi-track processing system.  NCUA FOIA staff generally processes requests on a first-in, first-out basis, but it processes on a simple track, less complex requests that can be completed more quickly as the documents are available.

V.       Availability of Public Information Through Websites and Other Means

NCUA provides extensive information to the public on its Internet website. Records that are the subject of recurring FOIA requests, such as lists of agency credit card holders, credit union applications and the agency telephone directory are available on demand and are regularly updated.  Detailed financial reports filed by credit unions on a quarterly basis are searchable and available for download.  Logs showing agency decisions, both by the NCUA Board and Regional Directors, are available for browsing.  All NCUA regulations and policy statements are available online, as well as legal opinions issued by the Office of General Counsel, Letters to Credit Unions providing guidance on operational and regulatory matters, Regulatory Alerts, all agency manuals, press releases for several years, and so forth.

The NCUA reading room, located at its headquarters in Alexandria, VA, provides the public with access to a full library of NCUA resource materials, including all agency staff directives, regulatory and legal interpretations, agency manuals, and public comment letters on rulemakings.

VI.      Ways to Reduce and/or Eliminate Backlog

NCUA's FOIA processing times have incrementally increased in the prior five-year period.  A significant increase in processing time coincided with the implementation in 2003, of the new software program for tracking and processing FOIA requests, and the centralization of the FOIA program.  Staff lack of familiarity with the software system and possible recordkeeping errors in the first and second fiscal years under the new system may have caused some inaccuracies in the median processing times in the annual FOIA reports.  At the same time, by centralizing its FOIA program, NCUA reduced the number of staff with part-time responsibilities for FOIA compliance.  Despite these issues, NCUA generally maintains a very small backlog of unanswered FOIA requests.  It

responds to a majority of requests in far fewer than the 20 business allowed by the FOIA.   For example, in the current fiscal year NCUA has responded to over 77% of all requests in 20 or fewer days.  As NCUA develops its plan for improvement of the FOIA program, it will look at the possibility of reorganizing the FOIA staffing and workload and increasing the training opportunities for staff to advance its goal of backlog reduction or elimination.

VII.  Conclusion

While NCUA is currently operating its FOIA program with significant success, as a result of this review, it has identified several areas for improvement.  To bring a greater level of conformity with the principles set forth in EO 13392, NCUA will focus on three areas to improve its FOIA program; first, improved communications with requesters, second, increased affirmative disclosure of information to the public, and third, reduction or elimination of any backlog of unanswered FOIA requests.

Approved by the NCUA Board on June 13, 2006.

/s/

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Mary Rupp, Secretary of the Board

<u>NCUA FOIA Improvement Plan Under Executive Order 13392</u>

A. <u>Overall Nature of NCUA's FOIA Operations</u>

NCUA's FOIA program is centralized in its Office of General Counsel (OGC). One attorney and one non-attorney, a regulatory specialist, are assigned to work on the day-to-day processing of FOIA requests, and release and redaction of documents. They are supervised by one of the two Associate General Counsels within OGC, who, in turn, reports to the Deputy General Counsel, who is the Chief FOIA Officer for NCUA, since January 2006. Staff members in other offices assist in gathering records responsive to FOIA requests. In 2003, NCUA invested in an electronic tracking software system and regularly updates the system. On average, in the preceding five-year period NCUA received 302 and closed 306 requests each year.

B. <u>Areas Selected for Review</u>

In addition to a general review of NCUA's FOIA process, it considered four main areas in its FOIA Program Review:

- NCUA's practices for informing the public regarding the FOIA process
- NCUA's use of information technology in responding to FOIA requests, and its practices regarding expedited and multi-track processing
- NCUA's practices for making public information available on its website and otherwise
- Ways to reduce or eliminate any backlog

C. <u>Summary of Review</u>

NCUA's FOIA program is in compliance with the statutory requirements and the policies set forth in EO 13392. It responds to FOIA requests promptly, it employs a multi-track processing system, offers customer-friendly communications, and makes many records available on its Internet website. Thus, the public can obtain those records without the need for a FOIA request. NCUA FOIA staff generally process requests on a first-in, first-out basis, but the agency processes less complex requests that can be completed more quickly on a separate track whenever the documents become available.

D. <u>Areas Chosen For Improvement</u>

Although NCUA's FOIA program is performing well, to bring a greater level of conformity with the principles set forth in EO 13392, NCUA will focus on three areas to improve its FOIA program:

- Improved communications with requesters
- Increased affirmative disclosure of information to the public
- Reduction or elimination of any backlog of unanswered FOIA requests

E. <u>Improvement Plans</u>

I.  Name:  Communications

1.  Goals/Objectives: Improve Communications With FOIA Requesters

2.  Steps to be Taken:

(a) Training for non-FOIA staff to assist in recognizing a FOIA request and how to assist requesters in the FOIA process.

(b) Consistently issue acknowledgement letters by mail or electronic mail.

(c) Update and reissue "Handbook for Obtaining Information" and distribute with acknowledgement letters as appropriate for new requesters and post to the agency website.

3.  Time Milestones:

(a) Design and present training for non-FOIA staff by 12/31/2007.
(b) Issue acknowledgement letters by 7/31/2006.
(c) Update *Handbook* by 10/1/2006 and distribute with acknowledgement letters in fiscal year 2007.

4.  Means of Measurement:  Step completed.

II.   Name:  Affirmative Disclosure

1.  Goals/Objectives:  Increase Affirmative Disclosure of Information

2.  Steps to be Taken:

(a) Develop and implement a system for placing frequently requested records on NCUA FOIA webpage.
(b) Improve NCUA FOIA webpage to link to other data already available publicly.

3.  Time Milestones

(a) Develop and implement a system for periodically placing frequently requested records on NCUA FOIA webpage by 11/31/2006.

(b) Improve NCUA FOIA webpage links by 9/17/2006.

4. Means of Measurement: Step completed.

III. Name:  Backlog Reduction/Elimination

1. Goals/Objectives: Reduce or Eliminate Backlog

2. Steps to be Taken:

(a) Consider reorganization of FOIA program.
(b) FOIA and non-FOIA staff training.
(c) Delegate authority to Regulatory Specialist to respond to some requests.
(d) Redraft and issue internal FOIA Instruction.

3. Time Milestones:
(a) Staff to prepare memorandum with recommendations concerning reorganization by 12/31/2006, and Chief FOIA Officer to determine whether to adopt recommendations by 3/31/2007.
(b) FOIA staff to attend at least one FOIA training session by 12/31/2006 and in each subsequent year.
(c) Delegate authority to Regulatory Specialist by 12/31/2006 to respond to some requests.
(d) Redraft and issue internal FOIA Instruction by 12/1/2006.

4. Means of Measurement: Step completed.

F. <u>Time Periods</u>

1. Areas With Anticipated Completion Date By December 31, 2006:

- Issue acknowledgement letters.
- Update *Handbook for Obtaining Information.*
- Develop and implement a system for periodically placing frequently requested records on NCUA FOIA page.
- Improve NCUA FOIA webpage links.
- Staff to prepare memorandum with recommendations concerning reorganization of FOIA program.
- FOIA staff to attend at least one FOIA training session.
- Delegate authority to Regulatory Specialist to respond to some requests.
- Redraft and issue agency's internal FOIA Instruction.

2. Areas With Anticipated Completion Date By December 31, 2007

- Design and Present FOIA training for non-FOIA staff.
- Distribute updated *Handbook for Obtaining Information* with acknowledgement letters as appropriate for new requesters in fiscal year 2007.
- If Field of Membership data can be placed online, then add link to it from NCUA FOIA webpage.
- Chief FOIA officer to determine whether to adopt staff recommendations concerning reorganization of FOIA program.
- FOIA staff to attend at least one FOIA training session.

3. Areas With Anticipated Completion Date After December 31, 2007

- FOIA staff to attend at least one FOIA training session annually.


Approved by the NCUA Board on June 13, 2006.

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Mary Rupp, Secretary of the Board