



**Recovery Accountability and Transparency Board**  
**1717 Pennsylvania Avenue NW, Suite 700**  
**Washington DC 20006-4614**

2014 Chief FOIA Officer Report  
Recovery Accountability and Transparency Board

Atticus J. Reaser  
General Counsel / Chief FOIA Officer

**Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is 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?

No. Due to the relatively small size of the Recovery Accountability and Transparency Board (Board) and the involvement of the Chief FOIA Officer and/or the FOIA Public Liaison in all FOIA requests received by the Board, no formal training was provided to other Board staff.

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.

Not applicable.

3. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

The FOIA Public Liaison attended the *Freedom of Information Act for Attorneys and Access Professionals* course in July 2013. Additionally, both the Chief FOIA Officer and FOIA Public Liaison attended a training session offered by the Department of Justice through the Director's Lecture Series.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

100%

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 professional attended substantive FOIA training in the past year.

Due to the relatively small size of the Board, the entirety of the FOIA staff at the Board consists of the Chief FOIA Officer and the FOIA Public Liaison. By reviewing the OIP training page on the OIP website and other sources, the Chief FOIA Officer and FOIA Public Liaison are able to stay apprised of training opportunities and plan accordingly.

*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.

No.

*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? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

The Chief FOIA Officer and/or FOIA Public Liaison review each request to ensure that the presumption of openness is appropriately applied when preparing a response and documents are withheld only if disclosure is prohibited by law or if the Board reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions. The determination of such potential harm often involves consultation with relevant Board stakeholders (*e.g.*, to understand the law enforcement sensitivity of a particular document or information contained therein, etc.).

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

No. The Board had very little opportunity to make discretionary releases. The Board did, however, on at least two occasions provide information and links to requestors so

that they could obtain responsive information not located at the Board. For example, one requestor was seeking information on salary and expense information related to a member of Congress. While the Board did not possess responsive information, Board FOIA staff was able to locate publicly available responsive information on the official website of the House of Representatives and provided a link to the requestor.

9. What exemptions would have covered the information that was released as a matter of discretion?

Not applicable.

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

Not applicable.

11. If your agency was not able to make any discretionary releases of information, please explain why.

In FY2013, information was withheld pursuant to Exemptions 6 and 7 and, therefore, there was very little opportunity to make discretionary disclosures. Similarly, since the beginning of FY2014, the vast majority of documents withheld by the Board were done so pursuant to Exemptions 6 or 7, leaving little room for discretionary disclosure. Documents that have been withheld pursuant to Exemption 5 in FY2014 were not released because it was determined that the content would reflect attorney-client privileged information and/or would chill the deliberative process.

*Other Initiatives:*

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

The Board strived to post all required quarterly FOIA reports for Fiscal Year 2013; however, there appear to be unresolved technological issues with OIP's retrieval of such reports. The Board will continue to work with OIP to resolve the issues so that the information can be located and retrieved by OIP.

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.

No formal initiatives; however, the Chief FOIA Officer and/or FOIA Public Liaison review each request to ensure the presumption of openness is appropriately applied when preparing a response.

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

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

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:*

During Sunshine Week 2012, OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

Not applicable. The Board has no full time FOIA professionals. The Board's FOIA staff consists of the General Counsel, who is the Chief FOIA Officer, and the Assistant General Counsel, who is the FOIA Public Liaison.

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 professional' 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? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not applicable. The Board did not adjudicate any requests for expedited processing in Fiscal Year 2013.

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? If so please describe those steps.

No. Such steps are unnecessary at this point. The Board has received very limited referrals and/or consultations (*e.g.*, only one referral received in FY2013). The Board is able to efficiently and effectively handle the volume of referrals and/or consultations through its current processes.

*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?

No; however, the Board plans to begin providing this information in response letters to requestors.

8. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self assessment to find greater efficiencies, improving search processes, eliminating redundancy, etc.

We have begun the process of drafting written internal procedures for Board FOIA personnel to follow to ensure consistency. We also conduct a regular review of the pending requests in the pipeline to ensure efficiency and effectiveness.

### **Section III: Steps Taken to Increase Proactive Disclosures**

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

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?

No. There is no specific system in place by which FOIA professionals identify records for proactive disclosure; however, as reflected below, the Board as a whole strives to increase the amount of material that is available on the Board's website and increase the usability of such information.

2. If so, describe the system that is in place.

Not applicable.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

With the Board's authority extended in January 2013 to include oversight of \$60 billion in Hurricane Sandy funding, the Board used one of its websites, [FederalTransparency.gov](http://FederalTransparency.gov), to begin to display available Hurricane Sandy data on maps and tables. Data related to Hurricane Sandy contracts was obtained from an existing government website and was geocoded on an Interactive Funding map that allowed the American public to see the name of the vendor and where they are located, together with the value of contract and the awarding agency. Tables also displayed details of the Housing and Urban Development's (HUD) Community Development Block Grants (CDBG) distribution to the top six states impacted, including the category of the grant and the amounts awarded down to the program level. To provide further information to the public, links to the HUD and the Federal Emergency Management Agency (FEMA) sites were added, as well as a link to the Department of Justice's disaster fraud reporting hotline.

In December 2013, the Board's primary website, [Recovery.gov](http://Recovery.gov), was rebranded as the official website for all the Board's activities. The site's [new Home Page](#) allows users to access information on [the Board](#), [Hurricane Sandy](#) (including the information described above), and [Recovery Act](#) data, as well as [archived Education Jobs Fund](#) information and reports from the [Government Accountability and Transparency Board](#).

In addition to displaying the Hurricane Sandy information that originally appeared on [FederalTransparency.gov](http://FederalTransparency.gov) described above, [Recovery.gov](http://Recovery.gov) has been expanded to display additional pertinent data. The Hurricane Sandy site now has its own home page that provides users with access to not only the [Interactive Funding map](#) and the [CDBG information](#), but also features a new bar graph that breaks down the amount of funding for each [FEMA Damage classification](#) by state and county. In addition, the [Board's quarterly reports](#) to Congress on its Hurricane Sandy activities are available.

Additionally, to help the American public understand how and where Hurricane Sandy funds are being spent, stories on rebuilding projects are featured.

*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.?

As described above, the data posted by the Board regarding Hurricane Sandy is not necessarily new; rather, it has been made more accessible and useful to the public. Additionally, Recovery.gov has a robust social media program to engage the public and solicit feedback on the site's content, as well as solicit suggestions on making the site more accessible and informative. In the last year, the number of Twitter followers increased from approximately 24,000 to more than 31,000. And, the number of Facebook fans is now more than 6,500.

In addition, the Board's telephone number is posted on the site and every call is responded to.

5. If so, provide examples of such improvements.

See the above responses.

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

Yes. Social media, including Twitter and Facebook, is used regularly to alert the public to any information that might be of interest concerning the Board's activities as well as announcing when new reports and information are posted on the website.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

Unlike in the Recovery Act, which required recipients of Recovery funding to report on the award and use of funding, there was no such requirement in the legislation addressing Hurricane Sandy relief. Moreover, no one agency was given the authority to collect such data. Accordingly, it has been a challenge to find sources for the data and gather data in a format that can be used to populate visualizations of Hurricane Sandy relief funding on Recovery.gov.

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

Not applicable.

## 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. Currently, a FOIA requester can track the status of his/her request by contacting the Board's FOIA Officer via email or telephone.

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? If not, please explain why.

The Board does not anticipate taking steps to establish online tracking. Due to the relative small volume of FOIA requests received at the Board, the resources required to develop such a capability weighed against the benefit gained do not justify this type of tracking.

### *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?

At this time, due to the Board's size, the small number of FOIA requests received by the Board, and the Board's status as a temporary federal agency, the Board has not taken steps to utilize more advanced technology to facilitate overall FOIA efficiency. Moreover, in light of the Board's status and low volume of FOIA requests received, the cost effectiveness of implementing such advanced technology is doubtful.

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?

There are no additional technological tools that would be cost effective in achieving further efficiencies in the Board's FOIA program.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals, and consultations. 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?

No.

- 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?

Not applicable.

- 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?

Yes.

*Backlogs and “Ten Oldest” Requests, Appeals and Consultations:*

2. Sections 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 pending 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. The Board did not have a backlog in either FY 2012 or FY 2013.

- 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. The Board did not have a backlog in either FY 2012 or FY 2013.

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. If you had less than ten total oldest requests to close, please indicate that. For example, if you had only seven requests listed as part of

your “ten oldest” in section VII.E. and 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?

Not applicable.

- 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 that were pending as of the end of the Fiscal Year in 2012?

Not applicable.

- 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 above 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. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog:

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

Not applicable.

- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

Not applicable.

- c. Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests received?

Not applicable.

- d. What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?

Not applicable.

“Ten Oldest” Not Closed

- e. Briefly explain the obstacles your agency faced in closing it ten oldest requests, appeals, and consultations from Fiscal Year 2012.

Not applicable.

- f. If your agency was unable to close any of its ten oldest requests or appeals 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.

*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 it 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 responses 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?

The Board has no formal system in place to provide interim response to requesters; however, when appropriate, the Board can provide interim responses and supplement as needed.

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 is 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.

With the Board's authority extended in January 2013 to include oversight of \$60 billion in Hurricane Sandy funding, the Board took the opportunity to increase the transparency of relevant spending information. For example:

- The Board used one of its websites, [FederalTransparency.gov](http://FederalTransparency.gov), to begin to display available Hurricane Sandy data on maps and tables.
  - Data related to Hurricane Sandy contracts was obtained from an existing government website and was geocoded on an Interactive Funding map that allowed the American public to see the name of the vendor and where they are located, together with the value of contract and the awarding agency.
  - Tables also displayed details of the Housing and Urban Development's (HUD) Community Development Block Grants (CDBG) distribution to the top six states impacted, including the category of the grant and the amounts awarded down to the program level.
- This content has now been moved from [FederalTransparency.gov](http://FederalTransparency.gov) to the Board's primary website, [Recovery.gov](http://Recovery.gov), which has been redesigned and expanded to display additional pertinent data. Specifically, on [Recovery.gov](http://Recovery.gov), a home page dedicated to Hurricane Sandy provides users with access to not only the [Interactive Funding map](#) and the [CDBG information](#) described above, but also features a new bar graph that breaks down the amount of funding for each [EMA Damage classification](#) by state and county. The [Board's quarterly reports to Congress](#) on its Hurricane Sandy activities are available.