



**Recovery Accountability and Transparency Board**  
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2015 Chief FOIA Officer Report  
Recovery Accountability and Transparency Board

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**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.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

***FOIA Training:***

1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?
  - Such training or events can include offerings from OIP, your own agency or another agency or organization.

Yes. The FOIA Public Liaison attended the Offices of Inspector General (OIG) FOIA Working Group lunch session on July 22, 2014, at which the relationship between FOIA and the Privacy Act was discussed. The FOIA Public Liaison also attended a FOIA information session at the General Services Administration (GSA) on December 15, 2014, at which GSA's 18F office discussed efforts to modernize the FOIA process. Additionally, both the Chief FOIA Officer and FOIA Public Liaison attended a Continuing Legal Education FOIA overview training session in January 2015.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100%

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

- Include any successes or challenges your agency has seen in implementing your plan.

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. Particularly as the Board is scheduled to statutorily terminate on September 30, 2015, the plan is to continue with this approach.

***Discretionary Releases:***

4. Does your agency have a distinct process or system 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 such a process or system in place.

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.).

5. During the reporting period did your agency make any discretionary releases of information?

No. The Board had very little opportunity to make discretionary releases; however, on more than one occasion, when no responsive materials were located at the Board, the Board assisted requestors by providing information and links to potentially responsive information not located at the Board.

6. What exemptions would have covered the material released as a matter of discretion?

Not applicable.

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Not applicable.

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

The nature of materials responsive to FOIA requests typically made to the Board provide little opportunity for discretionary release. In Fiscal Year 2014, for example, Exemption 5 was only applied three times and, in each case, discretionary disclosure was deemed inappropriate. The remainder of the exemption based denials in Fiscal Year 2014 cited Exemptions 3, 6, and 7(A), 7(C) and 7(D), affording little to no discretion for release.

***Other Initiatives:***

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

- 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.

Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. You should also include any additional information that describes your agency's efforts in this area.

***Processing Procedures:***

1. For Fiscal Year 2014 what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.

5 days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Not Applicable.

***Requester Services:***

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Yes.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication?

Not Applicable. The Board did not assess any fees in the reporting period.

5. If estimated fees are particularly high, does your agency provide an explanation for the estimate to the requester?

Not Applicable.

***Other Initiatives:***

6. If there are 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., please describe them here.

Due to the small size of the Board's FOIA Office and the limited number of FOIA officials, the Board is able to ensure efficiency and effectiveness primarily through regular review of the pending requests in the pipeline as well as coordination by and between the Chief FOIA Officer and the FOIA Public Liaison.

**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.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

***Posting Material:***

1. Does your Agency have a distinct process or system in place to identify records for proactive disclosures? If so, please describe your agency's process or system.

Yes. The Board proactively discloses on its website several Board generated records and/or content, including Board meeting minutes, reports (both programmatic and financial reports), testimony, and governing documents, which can be found at <http://www.recovery.gov/arra/About/board/Pages/TheBoard.aspx>. Moreover, as reflected below in Section IV(1), the Board strives to increase the amount of information, originating both at the Board and elsewhere, available on the Board's website and to improve the usability of such information.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.

The process described in Section III(1) takes place outside of the FOIA office.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted on line.

Due to the relatively small number of FOIA requests made to the Board and the involvement of the Board's Chief FOIA Officer and FOIA Public Liaison in all FOIA requests, "frequently requested" records can readily be identified.

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

In addition to posting the minutes pertaining to several Board meetings (<http://www.recovery.gov/arra/About/board/Pages/minutes.aspx>), the Board has posted several annual and quarterly reports (<http://www.recovery.gov/arra/About/board/Pages/Annual%20Quarterly%20Reports.aspx> and <http://www.recovery.gov/Sandy/about/Pages/BoardReports.aspx>), and other publications (<http://www.recovery.gov/arra/About/board/Pages/Publications.aspx>). See also Section IV(1) for a discussion of additional material that was posted to the Board's website, Recovery.gov, during the reporting period, as well as enhancements in access and usefulness to existing material.

***Other Initiatives:***

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

See Section IV(1) for a discussion of material that was posted to the Board's website, Recovery.gov, during the reporting period, as well as enhancements in access and usefulness to existing material.

**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.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that describes your agency's efforts in this area.

***Making Material Posted Online More useful:***

1. 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?
  - Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency's website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.

Yes. The Board continued to enhance its website, Recovery.gov, to display information related to Hurricane Sandy disaster assistance funding in a user friendly and accessible format. Some of the information added this past fiscal year had not previously been made publicly available and some of the information, while previously available, had been difficult to locate and use. Examples of such enhancements include:

- Based on data received from the Department of Housing and Urban Development Program Management Office, on March 4, 2014, the Board began publishing state-level information on the status of Hurricane Sandy funds across the federal government. This data populates a heat map, a trend chart, and a bar chart on the top programs receiving Hurricane Sandy funding. This data can be found throughout various links on [www.recovery.gov/Sandy/Pages/home.aspx](http://www.recovery.gov/Sandy/Pages/home.aspx).
- A new accountability page to post inspectors general reports on Hurricane Sandy programs: [www.recovery.gov/Sandy/Pages/Accountability.aspx](http://www.recovery.gov/Sandy/Pages/Accountability.aspx).

- The Federal Emergency Management Agency data section was expanded to display the top cities and counties receiving Hurricane Sandy funding:  
[www.recovery.gov/Sandy/wheretheymoneygoing/Pages/DisasterReliefPrograms.aspx](http://www.recovery.gov/Sandy/wheretheymoneygoing/Pages/DisasterReliefPrograms.aspx)

Additionally, the Board continues to maintain a strong presence on social media, including Twitter and Facebook, to apprise the public and stakeholders of the Board's activities as well as the posting of new data and information on Recovery.gov.

2. If yes, please provide examples of such improvements.
  - If your agency is already posting material in its most useful format, please describe these efforts.

See Section IV(1).

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Yes.

4. 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.

***Other Initiatives:***

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Yes.

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2015.

Not Applicable.

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? See OIP Guidance, "The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the

Content of Requester Communications.” (Nov. 22, 2013) If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

Yes. E-mail is the primary means of communicating with requesters.

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?

Not Applicable.

### **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 of your Chief FOIA Officer Report 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, appeals, and consultations. For the figures required in this Section, please use those contained in the specified sections of your agency’s 2014 Annual FOIA Report and, when applicable, your agency’s 2013 Annual FOIA Report.

**Simple Track:** 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.

1. Does your agency utilize a separate track for simple requests?

No.

2. If so, for your agency overall, for Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Not Applicable.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

Not Applicable.



4. 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:** 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 appeals from the Fiscal Year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

## **BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?
  - If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
    - An increase in the number of incoming requests.
    - A loss of staff.
    - An increase in the complexity of the requests received.

Not applicable. The Board did not have a backlog in either Fiscal Year 2013 or Fiscal Year 2014.

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."
  - To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

Not Applicable.

## BACKLOGGED APPEALS

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

- If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:
  - An increase in the number of incoming requests.
  - A loss of staff.
  - An increase in the complexity of the requests received.

Not applicable. The Board did not have a backlog in either Fiscal Year 2013 or Fiscal Year 2014.

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."

- To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, which can be found in Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.

Not Applicable.

***Status of Ten Oldest Requests, Appeals, and Consultations:*** 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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

### **Ten Oldest Requests**

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Not Applicable. No requests were pending at the end of Fiscal Year 2013.

10. 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 2013 Annual FOIA Report. 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 six of them, you should note that you closed six out of seven “oldest” requests.

Not Applicable.

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

Not Applicable.

### **Ten Oldest Appeals**

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

Not Applicable. No appeals were pending at the end of Fiscal Year 2013.

13. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close indicate that.

- For example, if you only had seven appeals listed as part of your “ten oldest” in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven “oldest” appeals.

Not Applicable.

### **Ten Oldest Consultations**

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year in 2013 Annual FOIA Report?

Not Applicable. No consultations were pending at the end of Fiscal Year 2013.

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

- For example, if you only had seven consultations listed as part of your “ten oldest” in Section XII.C. and you closed six of them, you should note that you closed six out of seven “oldest” consultations.

Not Applicable.

***Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:***

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

Not Applicable.

17. If your agency was unable to close any of its ten oldest requests 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.

18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2015.

Not Applicable.

**Use of FOIA’s Law Enforcement “Exclusions”**

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

No.