

**DATE:** February 26, 1999

**MEMORANDUM TO:** Robert E. Feldman  
Executive Secretary  
Office of the Executive Secretary

**FROM:** Stephen M. Beard  
Director, Office of Congressional Relations and Evaluations

**SUBJECT:** *Federal Deposit Insurance Corporation's Processing of Freedom of Information Act Requests (EVAL-99-001)*

This report presents the results of our evaluation of the Federal Deposit Insurance Corporation's (FDIC) processing of Freedom of Information Act (FOIA) requests. FDIC's Office of the Executive Secretary (OES) has the responsibility for ensuring that the Corporation discloses information in accordance with FOIA provisions. We conducted this review at the request of the Inspector General. The objective of our review was to determine whether FOIA requests were logged, tracked, and addressed in a timely manner.

Our review showed that OES had made some progress in improving the processing time of FOIA requests. OES adopted measures designed to streamline and improve the FOIA process, reduced its backlog of FOIA requests outstanding, and undertook initiatives to address some of the requirements of FOIA legislation amendments. However, OES still experienced delays in responding to FOIA requests in 1997 and the first half of 1998. Some of the delays were unavoidable, but others were attributable to: (1) OES not always being timely in assigning FOIA requests to FDIC divisions and offices for responses; (2) divisions and offices taking longer than OES's prescribed time to respond to FOIA requests; or (3) OES requiring more than its allotted time to review division and office responses for appropriateness and to prepare documents for release.

Our conclusions related to OES's timeliness in responding to FOIA requests are presented in the context of recognizing that circumstances may have precluded OES from being able to respond to all requests within the legislative time limits. We focused our efforts on identifying ways to accelerate the turnaround time on FOIA requests, and to ensure that FDIC can demonstrate good faith efforts in responding to FOIA requests as promptly as possible. We made recommendations in our draft report with that focus in mind. Our report specifically discussed opportunities for OES to

- improve the processing time of FOIA requests;
- establish more realistically achievable time limits for responding to complex FOIA requests through additional communication with requesters;

- work with the Legal Division in improving the (1) processing time for FOIA appeals, (2) tracking and reporting of FOIA appeals, (3) documentation of records searches, and (4) retention of documents released to requesters;
- ensure that FOIA administrative files are complete and contain a record of all pertinent activities leading to the FOIA response; and
- modify its FOIA tracking system to better monitor FOIA responses.

On February 12, 1999, OES provided us the Corporation's written response to our draft report. OES agreed with 10 of our 12 recommendations, and agreed in part with the remaining 2 recommendations. OES's written response and subsequent information it provided to us, along with actions already taken, planned actions, and alternate courses of action, provided the requisite elements of a management decision for each of the 12 recommendations. The Corporation's written response is included in its entirety as Appendix I of this report. Appendix II presents our assessment of management's responses to the recommendations and shows that we have a management decision for each of the 12 recommendations.

As part of our review, we met with FOIA representatives from the Department of Justice (DOJ), the Office of the Comptroller of the Currency, (OCC), the Office of Thrift Supervision (OTS), the National Credit Union Administration (NCUA), the Board of Governors of the Federal Reserve System (FRB), and the Department of the Treasury (Treasury) to obtain best practices information. We prepared a matrix summarizing the information we received and will transmit the matrix to management under separate cover at a later date.

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## *Summary of Review*

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Our review showed that OES had made some progress in improving the processing time of FOIA requests. OES had adopted measures designed to streamline and improve the FOIA process. OES also reduced its backlog of FOIA requests outstanding, and had undertaken initiatives to address some of the requirements of FOIA legislative amendments. However, OES still experienced delays in responding to FOIA requests in 1997 and the first half of 1998. Some of the delays were unavoidable and were due to the magnitude, sensitivity, or remote location of requested records. However, other delays were attributable to

- OES not always being timely in assigning FOIA requests to FDIC divisions and offices for responses,
- FDIC divisions and offices taking longer than OES's prescribed time to respond to FOIA requests, or
- OES requiring more than its allotted time to review division and office responses for appropriateness and to prepare documents for release.

In assessing OES's timeliness in responding to FDIC's FOIA requests, we were mindful that although the law contains time limits for responding to requests, the statutory framework, regulatory provisions, and case law anticipate that agencies will not always meet the time limits for a variety of reasons. The Congress, the courts, and agency administrative appeal offices are aware that agencies cannot always respond to every FOIA request within the specified time period, and recognize that delays can occur. Nevertheless, to comport with the spirit of the FOIA legislation, agencies should make good faith efforts to respond to FOIA requests as promptly as possible. To that end, we focused our work on identifying ways to accelerate the response time on FOIA requests and to ensure that FDIC can demonstrate good faith efforts in responding to requests as promptly as possible.

FOIA legislation allows for an extension of the time limit for responding to FOIA requests. Nevertheless, when OES encountered delays in responding to FOIA requests, it did not regularly contact FOIA requesters to arrange for an extension of time in which to respond. OES officials told us that they did not use the extension of time provision because formal communications with requesters to seek extensions would place additional work on the limited FOIA resources in OES. In addition, according to OES, the FOIA Specialists generally had frequent communications with FOIA requesters. Therefore, OES believed that formal requests for extensions might not have been necessary. In our opinion, OES may have been missing opportunities to establish more realistically achievable time limits for responding to complex FOIA requests by not requesting extensions of time.

With respect to OES's involvement in processing administrative FOIA appeals, we found that OES recorded receipt of FOIA appeals in a timely manner. In addition, OES's revisions to FDIC Circular 1023.1, *Procedures for Processing Freedom of Information Act Requests*, should help improve the processing time of FOIA appeals. Specifically, OES included in its revisions an enhancement of its guidance for divisions and offices to use for documenting record searches. Such documentation is necessary to facilitate the General Counsel's review of, and ultimate decision on, an administrative appeal. However, we found that OES was not always timely in providing required documentation to FDIC's General Counsel. Further, OES did not always have current information on the status of the FOIA appeals being tracked in its FOIA database system. During our review, OES initiated monthly

status checks with the Office of General Counsel to reconcile OES's FOIA appeals inventory with the Office of General Counsel's FOIA appeals caseload. These status checks should help ensure that OES maintains current information for FOIA appeals and accurately reports the status of the appeals when required to do so.

OES prepared and submitted quarterly status reports to the Chief Operating Officer (COO) on the overall results of processing FOIA requests. We determined there were 19 fewer open requests included in the database listing provided to us for our review than requests outstanding reported in the 2<sup>nd</sup> quarter 1998 *Quarterly FOIA Report* as of June 30, 1998. We could not reconcile the difference because OES's documentation for the 2<sup>nd</sup> quarter 1998 *Quarterly FOIA Report* did not include support for the total number of FOIA requests outstanding. Thus, we were unable to express an opinion on the accuracy of the total number of requests outstanding as of June 30, 1998, reported to the COO.

FOIA case files help ensure that an administrative record exists on the extent of record searches, processing activities, and responses to FOIA requests. OES's FOIA administrative files generally contained adequate documentation of activities conducted to respond to the FOIA requests. However, some of the files we reviewed did not contain pertinent documents, such as division or office responses to the requests, or explanations of long lapses of time where there appeared to be no activity. The lack of pertinent documentation in the OES FOIA administrative files could have limited the files' usefulness as future reference for subsequent related FOIA requests or appeals, and could have made it more difficult to prepare supporting documentation for any related FOIA litigation.

With regard to OES's FOIA tracking system, we found that data in the FOIA STAR database were generally accurate and supported by documents in the administrative files. However, some of the database fields were not being used for their intended purposes, and additional database fields were needed to help OES monitor FOIA responses. The Corporation will be replacing the FOIA STAR database as part of its Knowledge Management (KM) Project and OES has agreed to make interim enhancements to STAR if it is cost beneficial to do so, or will ensure the new system addresses our findings.

## ***Objective, Scope and Methodology***

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Our evaluation primarily focused on testing a statistically selected sample of FOIA requests received or closed during the period January 1, 1997 through June 30, 1998, or still pending as of June 30, 1998. The objective of our review was to determine whether FOIA requests during that period were logged, tracked, and addressed in a timely and efficient manner.

OES provided us a FOIA STAR database listing of 1,913 FOIA requests that met the parameters described above. From this universe, we selected a random sample of FOIA requests based on a 95 percent confidence level, 10 percent error rate, and  $\pm 5$  percent precision. This resulted in a sample of 149 FOIA requests, consisting of 123 closed FOIA requests, 14 appeals, and 12 FOIA requests still open. For each FOIA request in our sample, we reviewed OES's FOIA administrative files to assess the timeliness of responses, determine why responses were delayed, and verify the reliability and accuracy of the information in the FOIA STAR database. We also discussed the requests we reviewed with the OES Senior FOIA Attorney and the FOIA Specialists.

To accomplish our objective, we also

- documented OES's organizational structure, relevant policies and procedures, staffing and staff responsibilities;
- reviewed prior reports and evaluations of OES's FOIA operation, including
  - FDIC OIG audit report, *FDIC's Processing of Freedom of Information Act Requests*, dated February 12, 1993;
  - Division of Information Resources Management (DIRM) report, *Office of the Executive Secretary Process and Technical Improvement Analysis*, dated September 24, 1997;
  - iKon Group draft status report, *FOIA Process Improvement*, issued in December 1996; and
  - KRA Corporation's evaluation of the Division of Supervision's (DOS) FOIA processing dated January 22, 1998;
- reviewed FOIA and Electronic FOIA (E-FOIA) legislation;
- reviewed the *Annual Report of the Federal Deposit Insurance Corporation on Its Implementation of the Freedom of Information Act (5 U.S.C. 5520)* to Congress, for the period January 1, 1997 through September 30, 1997;
- reviewed the Department of Justice (DOJ) guidance, *Freedom of Information Act Guide & Privacy Act Overview*, 1997 and 1998 Editions, and *FOIA UPDATE* publications;
- reviewed 12 CFR Part 309, FDIC rules and regulations implementing FOIA and E-FOIA legislation;
- reviewed FDIC Circular 1023.1, *Procedures for Processing Freedom of Information Act Request*, and proposed revisions to Circular 1023.1 that were distributed for comments in July 1998;
- obtained a legal interpretation from OIG Counsel on certain aspects of FOIA requirements;
- interviewed the OES Senior FOIA Attorney, FOIA Specialists, and FOIA support staff, to understand and document the FOIA process, identify problem areas and program successes, and obtain suggestions for improvements;
- analyzed 32 FOIA requests that were more than 4 months outstanding as of June 30, 1998 to determine reasons for the delays in responding to these FOIA requests;
- attempted to reconcile the number of outstanding requests reported in the 2<sup>nd</sup> quarter 1998 *Quarterly FOIA Report* submitted to the COO, to the outstanding requests included in the STAR

database listing of requests, but were unable to reconcile the differences because OES's supporting documentation for the 2<sup>nd</sup> quarter 1998 *Quarterly FOIA Report* did not include support for the total number of FOIA requests outstanding;

- reviewed the FOIA appeals process, including determining OES's and the Legal Division's (Legal) role in the appeals process; division and office involvement; FDIC General Counsel responsibilities; timeliness of addressing appeals; reasons for delays in processing appeals; and trends identified by Legal, for example, propriety of original withholding of documents, exempt records, and adequacy of searches;
- interviewed the division and office FOIA contacts in the OIG, Division of Resolutions and Receiverships (DRR), DOS, Division of Administration (DOA), Office of Corporate Communications/Public Information Center (OCC/PIC) and Legal to discuss their experiences with the FOIA process and obtain suggestions for improvements;
- interviewed the Assistant General Counsel and staff, in Legal, who are responsible for administering the FOIA appeals program to discuss their experiences with the appeals process and obtain suggestions for improvements; and
- interviewed FOIA representatives from DOJ, OCC, OTS, NCUA, FRB, and Treasury to obtain: comparative statistics, FOIA processing procedures and information, best practice information, benchmarks, insights about their program successes, and procedures for recording costs and collecting fees for FOIA requests.

We experienced scope limitations that may have impacted our evaluation results. Specifically, OES was unable to locate files for 4 FOIA requests included in our sample and 1 FOIA request included in requests still open for more than 4 months as of June 30, 1998. In addition, 21 FOIA log numbers were missing from the FOIA database file (1,913 log numbers) provided by OES and from which we drew our sample for the review. We discussed these missing numbers with OES officials who acknowledged that OES's database search inadvertently omitted 21 FOIA requests from the database file provided to us. The omission of the 21 FOIA log numbers from the FOIA database file provided by OES precluded us from projecting our sample results to the universe of FOIA requests received or closed during the period January 1, 1997 through June 30, 1998, or still pending as of June 30, 1998.

We conducted our review from June 22, 1998, through November 6, 1998, in accordance with the President's Council on Integrity and Efficiency's *Quality Standards for Inspections*. We discussed our preliminary findings with OES officials during an exit conference held on November 19, 1998.

## ***Background***

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FOIA, which can be found in title 5 of the United States Code, section 552, was enacted in 1966 and provides that any person has the right to request access to federal agency records or information. All agencies of the United States government that come within FOIA's definition of

“agency” are required to disclose records upon receiving a written request for them, except for those records that are protected from disclosure by the nine exemptions and three exclusions of the FOIA. This right of access is enforceable in court. FOIA was amended by the Electronic Freedom of Information Act Amendments of 1996 (E-FOIA) and signed into law on October 2, 1996. Among other things, E-FOIA establishes expedited and “multitrack” FOIA processing procedures, changes the processing deadlines and appeal rights, and grants the public access to certain government documents via computer telecommunications.

FOIA, as originally enacted, requires an agency to determine whether to comply with the request and to notify the requester of its decision to grant or deny access to the requested records within 10 business days, subject to certain exceptions. The statute also requires that if an agency determines that it will comply with a request, the records are to be made promptly available to the person making the request. However, the statute does not establish a deadline for releasing records. The required 10-business day response time normally begins the date the request has been received. However, the response period can be delayed until the date the request has been clarified, if necessary, or the date the requester has agreed to pay the related costs to process the request. Under E-FOIA, agencies now have 20 business days to respond to the requester of its intention to comply with a request. FOIA requesters, whose initial requests for records or fee waivers have been denied in part or entirely, have the right to appeal the denials. FOIA and E-FOIA require an agency to make a determination on an appeal within 20 business days after receipt of such appeal.

FDIC’s rules and regulations implementing FOIA could be found in 12 CFR, Part 309, *Disclosure of Information*. FDIC amended 12 CFR, Part 309 to incorporate E-FOIA provisions, and documented its amendments in *Federal Register*, Volume 63, Number 64, dated April 3, 1998, effective May 4, 1998. At the time of our review, the Corporation’s procedures for processing FOIA requests for FDIC records were contained in FDIC Circular 1023.1, *Procedures for Processing Freedom of Information Act Requests*, dated February 2, 1994. In July 1998, FDIC revised Circular 1023.1 to incorporate E-FOIA provisions, and distributed the revised Circular to divisions and offices for comments. On December 1, 1998, we submitted comments on revised Circular 1023.1 to OES. As of the date we issued the draft report, FDIC had not yet issued revised Circular 1023.1.<sup>1</sup>

OES is responsible for administering FDIC’s FOIA program. OES receives FOIA requests and uses the STAR database to track the requests. OES then assigns the request to the FDIC division or office, which would reasonably be expected to have the information that is responsive to the request. For requests only assigned to one division or office, the assigned division or office is then responsible for responding directly to the FOIA request, unless the requested information is to be denied either in whole or in part. FDIC’s Executive Secretary (or designee) is the only FDIC official authorized to deny, either in whole or in part, requests for records under the FOIA. A requester can appeal a denial, and if the appeal is subsequently denied, the requester can pursue judicial proceedings.

As of November 17, 1998, OES had six staff in its FOIA unit: one Senior FOIA Attorney, three Senior FOIA Specialists, one FOIA Technician, and one FOIA Assistant. The Senior FOIA

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<sup>1</sup> On February 11, 1999, the Executive Secretary signed revised Circular 1023.1.



Attorney also served as FDIC's Privacy Act Attorney. In 1997 and part of 1998, OES employed three additional FOIA Specialists and one additional FOIA Attorney, but in April 1998, two FOIA Specialists and the FOIA Attorney accepted the Corporation's buyout offer, and one FOIA Specialist was detailed to another OES unit. FDIC received 1,011 FOIA requests in 1997 and 811 requests during 1998.

The first priority for the OES FOIA unit in 1996 and 1997 was to reduce a 5-year backlog of 699 FOIA requests. OES reduced this number to 179 requests outstanding as of December 31, 1997. The second priority was to initiate efforts to implement E-FOIA requirements. As part of the E-FOIA effort, the OES FOIA unit managed a Corporate Operating Plan System (COPS) Project to develop, integrate, and implement appropriate information technology to effectuate E-FOIA requirements. OES created an interdivisional working group to help OES establish procedures for compliance with E-FOIA. OES invited participation from Legal, OIG, DOA, DOS, Division of Asset Services (now known as DRR), and DIRM who routinely handle sensitive documents. The COPS Project's action plan included steps to establish an FDIC E-FOIA World Wide Web, initiate development of a guidebook, develop an FDIC E-FOIA regulation, and revise FDIC's FOIA directive.

OES also undertook various initiatives related to E-FOIA before and during the course of our review. These initiatives included the design and development of FDIC's E-FOIA web page on Internet, and the electronic availability of FDIC's FOIA regulations and other information on the Internet. FDIC was cited by DOJ in its Summer 1997 *FOIA UPDATE* as having a very advanced electronic FOIA office, far beyond what nearly every other agency employed at the time. FDIC was also recognized in the Winter-Spring 1998 issue of *Government Information Insider*, in an article entitled "An OMB Watch Report on the Implementation of the 1996 'EFOIA' Amendments to the Freedom of Information Act." FDIC was praised in this article for its E-FOIA web site. Specifically, the article stated that FDIC's E-FOIA web site clearly articulated to the public not only how to go about requesting information from FDIC, but also what information can and cannot be accessed under FOIA and E-FOIA. According to this article, the clear language used by FDIC is not only useful, but is also necessary in providing meaningful public access to federal government information.

Under FOIA, agencies were required to submit an annual report to Congress on their implementation of FOIA. E-FOIA requires agencies to submit annual reports to the Attorney General of the United States. The report includes various statistics on the number of denied FOIA requests, the number of appeals, and other required information. The report for 1997 was for a period of 9 months, January 1 through September 30, due to the E-FOIA change in reporting period to a fiscal year basis. For the 9-month period in 1997, FDIC reported that approximately \$688,640 in incremental costs were incurred in administering FOIA and that \$40,643 in fees were collected. Incremental costs include fees not charged to requesters pursuant to the fee guidelines and personnel costs relating to the administration of the FOIA program.

### ***Analysis of Processing Time for Responding to FOIA Requests***

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OES had made some progress in improving the processing time of FOIA requests. For example, OES eliminated the preliminary supervisory review of FOIA requests and established the practice of the FOIA Technician directly receiving FOIA requests. OES also delegated authority to FOIA Specialists

to issue certain types of FOIA responses under their own signatures, thereby eliminating the time required for supervisory review and signature. OES also reduced its 1996 backlog of nearly 700 pending FOIA requests to 151 requests outstanding as of September 30, 1998.

However, we identified opportunities for OES to accelerate FOIA response time to better meet legislative time limits. Our review showed that OES experienced delays in responding to FOIA requests in 1997 and the first half of calendar year 1998. As a result, OES did not always process FDIC's FOIA requests in compliance with the time limits established in the FOIA and E-FOIA statutes. Some of the delays were due to the magnitude, sensitivity, or location of some of the requested records, thus precluding OES from being able to respond in a timely manner. However, other delays were attributable to

- OES not always being timely in assigning FOIA requests to FDIC divisions or offices for responses,
- FDIC divisions or offices taking longer than OES's prescribed time to respond to FOIA requests, or
- OES requiring more than its allotted time to review division or office responses for appropriateness and redaction requirements and prepare documents for release.

Under FOIA, as originally enacted, an agency in receipt of a proper FOIA request was required to inform the requester of its decision to grant or deny access to the requested records within 10 business days. As of October 2, 1997, the E-FOIA amendments increased this time period to 20 business days. Although FOIA contains these time limits for responding to FOIA requests, the statutory framework, related regulatory provisions, and case law anticipate that agencies will not always meet the deadlines. In many instances, agencies are unable to meet these time limits for a variety of reasons. The Congress, the courts, and agency administrative appeal offices are aware that agencies cannot always respond to every FOIA request within the specified time period, and recognize that delays can occur because of factors such as limitations of resources; complexity, size, and location of records being requested; and backlogs of previously received FOIA requests that are awaiting processing. Nevertheless, to comport with the spirit of the FOIA legislation, agencies should make good faith efforts to respond to FOIA requests as promptly as possible.

Our conclusions related to OES's timeliness in responding to FDIC's FOIA requests are presented in the context of recognizing that circumstances may have precluded OES from being able to respond to all FOIA requests within the 10- or 20-business day time limits. In our evaluation of timeliness, we have considered such matters as: the broadness of the individual FOIA request being reviewed; the number of documents deemed to be responsive to any given request; the sensitivity of the information being requested; OES's resources available to respond to the request; the number of requests outstanding; OES's priorities in responding to top management and Congressional inquiries; and OES's efforts to respond to the request at issue. We focused our

efforts on identifying methods to accelerate the turnaround time on FOIA requests, and to ensure that FDIC can demonstrate good faith efforts in responding to the requests as promptly as possible.

In this section of the report, we refer to requests received prior to October 2, 1997, as "FOIA requests," and identify requests received after this date as "E-FOIA requests." Our review showed that OES processed the FOIA requests in a median of 35 business days and the E-FOIA requests in a

median of nearly 23 business days, more than the 10 or 20 business days prescribed by the FOIA and E-FOIA legislation, respectively.<sup>2</sup> Processing time ranged from a minimum of 1 business day to a maximum of 331 business days. Overall, OES responded to 16 percent of 81 FOIA requests within 10 business days, and to 47 percent of 38 E-FOIA requests within 20 business days. The following tables summarize OES’s processing time for the 81 closed requests processed under FOIA and the 38 closed requests processed under E-FOIA that we reviewed.

### Closed Requests Processed Under FOIA

Number of Business Days to Process	FOIA Request	
	Number	Percent
0 – 10	13	16%
11 – 20	13	16%
21 – 30	9	11%
31 – 40	11	14%
41 – 50	2	2%
51 – 100	15	19%
101 – 331	18	22%
<b>TOTAL*</b>	<b>81</b>	<b>100%</b>

\*OES/FOIA could not locate four files from the Closed Requests Processed Under FOIA during the course of our review.

### Closed Requests Processed Under E-FOIA

Number of Business Days to Process	FOIA Request	
	Number	Percent
0 – 20	18	47%
21 – 30	4	11%
31 – 40	2	5%
41 – 50	6	16%
51 – 116	8	21%
<b>TOTAL</b>	<b>38</b>	<b>100%</b>

### OES’s Assignment of FOIA Requests to Divisions or Offices for Responses

OES was not always timely in assigning FOIA requests to divisions or offices for responses. Our review disclosed that OES took a median of 2 business days to refer FOIA and E-FOIA requests. Referral time ranged from a minimum of 1 day (the same day that the request was deemed to be in compliance with FOIA requirements that are described below) to a maximum

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<sup>2</sup> The median is the number in the middle of a set of numbers; that is, half the numbers have values that are greater than the median, and half have values that are less.

of 21 business days for FOIA requests, and from 1 day to 5 days for E-FOIA requests. Thirty-two percent of the FOIA requests in our sample were assigned to the appropriate division or office within the same day that the request was deemed to be in compliance with FOIA requirements. Forty-seven percent of the E-FOIA requests were referred on the same day the compliant requests were received by OES.

FOIA specifies two requirements regarding a request for agency records, namely that the request reasonably describe the records sought and be made in accordance with agency regulations regarding time, place, fees (if any), and procedures to be followed. FDIC's FOIA regulations refer to a FOIA request that fails to comply with these requirements as a defective request, which may be returned to the requester to be replaced by a corrected, new request. A FOIA request, which meets the requirements, is referred to as a "perfected" or proper request. According to Circular 1023.1, OES dates the request upon receipt, thereby commencing the 10- or 20-business-day period in which to respond to such requests.

Circular 1023.1 did not address how soon OES should refer a FOIA request to the appropriate FDIC division or office that would reasonably be expected to have custody of the records requested. Considering the limited amount of turnaround time for responding to a FOIA request, we believed that OES should strive to assign a request that is not defective as soon as possible, but not later than 1 day after the request is deemed to be proper. We discussed this matter with OES officials who agreed that OES should assign FOIA requests to divisions and offices on the same day the request is deemed to be perfected.

### **Divisions' and Offices' Responses to FOIA Requests**

FDIC divisions and offices were taking longer than the prescribed time to respond to FOIA requests. Circular 1023.1 allowed 8 business days following receipt of the request by OES for divisions and offices to respond to FOIA requests. In our review of 119 FOIA requests closed during 1997 and the first half of 1998, we found that divisions and offices took anywhere from 2 to 258 business days to provide responses to FOIA requests, and from 1 to 93 business days to respond to E-FOIA requests. Divisions and offices took a median of 16 business days and 13 business days to provide responses to FOIA and E-FOIA requests, respectively.

Through a review of the FOIA administrative files and discussions with OES officials, we determined that delays in division and office responses were due to the magnitude, sensitivity, or remote location of the records being requested, or time spent waiting for requesters' agreement to pay additional charges for fulfilling the request. For some of the FOIA requests in our sample, there was nothing in the files to explain the delays in division or office responses. We believed measures such as more expedient transmittal of FOIA requests and responses by OES and divisions

and offices, respectively, and more frequent OES contacts with divisions and offices to seek status, could improve the timeliness of FOIA responses.

OES could have used more expedient mailing techniques to transmit FOIA requests to divisions and offices. OES's standard practice was to deliver requests directly to FDIC divisions and offices that were co-located in the same building with OES, and to use inter-office mail to transmit requests to offices and divisions located in other FDIC facilities. Previous studies of FDIC's FOIA process disclosed that a 3- or 4-day delay could be associated with inter-office mail deliveries. These delays equated to 30 or 40 percent of the FOIA 10-business day statutory time limit for processing FOIA requests, and 15 or 20 percent of the 20-business day time limit for E-FOIA requests. We recommended that, when feasible, OES arrange for FOIA request referrals to be hand-carried to the respective division or office. In situations where direct delivery services were not readily available, we recommended that OES transmit the referral via facsimile, mail the original FOIA request to the appropriate division or office as soon as possible after the facsimile transmission, and send an electronic mail notification to confirm that the request was received.

FDIC divisions and offices co-located in the same building with OES generally delivered FOIA responses directly (hand carried) to OES. Other divisions and offices used inter-office mail to send their FOIA responses and communications to OES. As previously mentioned, delays associated with inter-office mail transmittal could significantly impact the 8-business day time period allotted to divisions and offices for responding to FOIA requests. Accordingly, we recommended that OES confer with the FOIA Contacts in the divisions and offices to explore the possibility of direct delivery of responses or alternative, more expedient, means of transmitting the responses to OES.

Some of these delays might have been avoided if OES had more frequently sought status from divisions and offices on their progress in locating the FOIA-requested records. We asked OES officials whether they routinely contacted divisions and offices to request status on FOIA requests as response due dates approached. OES officials told us that divisions and offices were contacted every quarter to obtain current information on outstanding FOIA requests to be incorporated in the *Quarterly FOIA Report* prepared for the COO. However, as a matter of practice, OES did not always contact divisions and offices to obtain status based on the 8-business day response due dates. During the course of our review, OES initiated an effort to seek status on outstanding FOIA requests from divisions and offices on a monthly basis. While we believed this was a good faith effort, we recommended more frequent status checks on individual FOIA requests. Specifically, we recommended that OES seek status from divisions and offices in advance of the 8-business day time frame allotted to the divisions and offices for their responses to improve OES's ability to meet the statutory time limit.

## **OES's Final Responses to FOIA Requests**

OES experienced delays in preparing final responses to FOIA requests. Circular 1023.1 allows divisions and offices to provide final responses directly to FOIA requesters only in situations where the assigned division or office determines that the FOIA request should be granted, in full. In cases where the division or office determines that the request should be denied, entirely or in part, the division or office provides OES the records requested and an explanation for the recommended denial. Only four FDIC divisions or offices were providing disclosure recommendations to OES. Three divisions and offices, as a matter of course, provided the requested records to OES and relied on OES to determine whether the records should be released in their entirety, or whether certain information was exempt from disclosure under FOIA. OES FOIA Specialists reviewed the proposed responses, redacted the information protected from disclosure to the public, photocopied the documents and prepared FDIC's FOIA response letter. Given that the statutory time limits for responding to a FOIA request are 10 or 20 business days for FOIA and E-FOIA, respectively, OES had allotted itself only 2 business days for FOIA and 12 business days for E-FOIA to finalize responses. This allotment was necessary because OES gave divisions and offices 8 business days to perform their tasks.

Our review showed that OES took from 1 to 264 business days to issue final responses for FOIA requests, and took from 1 to 59 business days to issue final responses for E-FOIA requests. OES took a median of 5 business days to issue final responses for FOIA and E-FOIA requests. OES prepared final responses within 1 to 10 business days after receiving responses from divisions and offices for nearly 57 percent of the FOIA requests we reviewed. OES's final response time improved for E-FOIA requests. OES prepared final responses within 20 business days or less after receiving responses from divisions and offices for nearly 74 percent of the requests we reviewed.

Our review of the FOIA administrative files and discussions with OES FOIA Specialists disclosed that delays in issuing the final responses occurred for a variety of reasons. First, during 1996 and 1997, OES focused its efforts on reducing the large number of FOIA requests outstanding in OES's inventory. Other delays were due to

- FOIA Specialists' increased workloads brought about by a reduction in OES FOIA resources;
- Congressional requests regarding FOIA matters taking precedence over FOIA Specialists' normal workload;
- FOIA Specialists handling clerical tasks, such as photocopying voluminous documents in response to FOIA requests; and
- FOIA responses undergoing lengthy supervisory reviews.

In addition to these reasons, the FOIA Specialists attributed the delays in finalizing FOIA responses to a lack of uniform policies and procedures for processing FOIA requests. Specifically, the FOIA Specialists believed that they spent a lot of time reviewing responses and answering questions raised by division and office personnel regarding matters such as record disclosures, roles and responsibilities for multiple division responses and cost estimates. The FOIA Specialists told us that uniform guidance for responding to FOIA requests, a FOIA training program for OES and division and office FOIA contacts, and additional staff could improve the timeliness of the FOIA process.

### **Uniform FOIA Guidance**

Circular 1023.1 provides general procedures for processing FOIA requests. However, the Circular

does not delineate the numerous administrative and technical tasks that must be completed by OES FOIA personnel, division and office FOIA contacts to respond to FOIA requests. OES prepared a *FOIA Deskbook*, undated, but according to an OES official, FOIA Specialists rarely used this document.

In our review of administrative files for the FOIA requests in our sample, we found several examples where it appeared that division and office FOIA personnel were not completely aware of FDIC's FOIA procedures. In one case, division personnel responsible for searching records for the requested information expressed uncertainty regarding their authority to contact the requester to obtain needed clarification about the FOIA request. In another case, the FOIA Specialist told us that the responsible division suggested that a "No Records" response be sent to the requester due to the voluminous information requested. OES did not accept the "No Records" response, and negotiated a more narrowed scope with the requester. In another case, the field staff member responding to the FOIA request asked whether he was authorized to contact the FOIA requester to notify the requester that search costs had exceeded the fees the requester had agreed to pay, and that the responsive documents would most likely be exempt from disclosure.

Previous studies of FDIC's FOIA process also disclosed the need for standard guidance to be used in processing FOIA requests. The DIRM *Office of the Executive Secretary Process and Technical Improvement Analysis* report issued on September 24, 1997, included an observation that there was no standard manner in which FDIC divisions and offices respond to FOIA requests. The iKon Group studied FDIC's FOIA process in 1996 and reported that six different divisions who participated in the study suggested clarification and improvements in the area of multiple-division FOIA cases.

During our exit conference, we discussed the need for OES to develop comprehensive FOIA guidance to be used by FDIC personnel involved in FOIA activities. OES officials said that developing a FOIA guidance manual would require the efforts of OES FOIA personnel, especially the time of the Senior FOIA Attorney, who has responsibility for the FOIA activities and serves as the Corporation's Privacy Act Attorney. OES officials told us that they believe the guidance already in place, namely DOJ's *Freedom of Information Act Guide & Privacy Act Overview* and Circular 1023.1 is adequate. DOJ recently issued a new edition of its *Guide*, and OES provided copies of the *Guide* to each division and office. OES officials said that the revised Circular 1023.1 should provide divisions and offices the information they need to respond to FOIA requests. OES officials said they would consider updating the *FOIA Deskbook* for OES FOIA staff to use for administrative processing of FOIA requests.

We believe that OES's distribution of DOJ's updated guidance to divisions and offices and OES's proposed actions address our concerns regarding the need for improved FOIA guidance. In addition, based on the results of this review, we provided comments to OES on the proposed

revisions to Circular 1023.1 on December 1, 1998. We suggested in our draft report that OES consider our comments in finalizing the revised Circular. Further, we encouraged OES to update its *FOIA Deskbook* to ensure uniformity of FOIA request processing within the FOIA unit.

## **FOIA Training**

In 1996 and 1997, OES focused its efforts on reducing the 5-year backlog of FOIA requests and implementing E-FOIA. In addition, in 1996, OES lost its Training Officer position. Consequently, OES had to abandon regular scheduling of formal FOIA classes. OES did, however, provide FOIA training to individuals and units upon request. In 1997, OES officials provided FOIA instruction to individual units in three divisions, and held meetings with the senior FOIA contacts. In 1998, OES officials held three FOIA training sessions, one of which was made available to all divisions and offices.

In our discussions with division and office FOIA contacts, several of the contacts endorsed the concept of OES providing periodic training on FOIA activities. One Senior FOIA Specialist observed that divisions and offices differ in their FOIA experiences, FOIA expertise, and implementation of Circular 1023.1. The Senior FOIA Specialist suggested that FDIC develop its own FOIA training program to help ensure that FOIA requests are responded to in a uniform, consistent, and quality manner. In our discussions with six outside agencies to gain insights about their FOIA program successes, all six suggested training for employees involved in FOIA activities.

The DIRM *Office of the Executive Secretary Process and Technical Improvement Analysis* report recommended that OES re-institute its FOIA training program. An OES official told us that training was probably the best way to ensure that personnel working on FOIA requests clearly understand the process. Accordingly, we recommended that OES, in consultation with FDIC's Training and Consulting Services Branch, develop a FOIA training program for FOIA Specialists, FOIA technicians, FOIA contacts in divisions and offices, and all personnel involved in FOIA activities. Such a program should help ensure that these individuals are knowledgeable of relevant rules and regulations regarding FOIA.

We discussed the need for a FOIA training program with OES officials during our exit conference. OES officials said that developing a formal FOIA training program would require the involvement of FOIA staff and add to their workload. OES officials also expressed concerns that divisions and offices might not be receptive to OES FOIA training because of other resource demands related to their functions and activities. They stressed that division and office management endorsement would be needed to ensure that division and office personnel attended the training. Nevertheless, OES officials said they were supportive of a FOIA training program, and agreed to consider our recommendation to institute such a formal program.



## **FOIA Unit Staffing**

The FOIA requests included in our review were received, and in many cases, processed during 1997 and the first half of 1998 by six FOIA Specialists and one FOIA Attorney. These FOIA Specialists and the FOIA Attorney were responsible for responding to the 1,011 FOIA requests received by FDIC during 1997. In April 1998, two FOIA Specialists and one FOIA Attorney left the employment of FDIC, and one FOIA Specialist was detailed to another OES unit. FDIC received 811 FOIA requests in 1998 – 80 percent of the 1997 workload. Accordingly, in 1998, the OES FOIA unit managed nearly 80 percent of the 1997 FOIA workload with only 43 percent of the 1997 staff. As of November 16, 1998, OES had three FOIA Specialists and a caseload of 151 FOIA requests outstanding.

With the incumbent in one of OES's four FOIA Specialist positions being on detail during most of 1998, OES was essentially operating below its core staffing level. We asked OES officials if they had considered adding another FOIA Specialist to the staff to better distribute the workload. OES officials told us their staffing strategy was to determine whether existing staff could handle the current workload before making a decision to add a fourth FOIA Specialist to the FOIA staff. OES officials anticipate making a decision on this matter no sooner than July 1999, at which time OES will have four quarters of data on actual numbers of incoming FOIA requests.

## **Processing Time for Requests Outstanding as of June 30, 1998**

In addition to our statistical sample of 119 closed FOIA requests, we reviewed 12 FOIA requests in our sample that were still open as of June 30, 1998. OES responded to 10 of the 12 requests during the course of our review. Processing time for these 10 requests ranged from 61 to 188 business days. The median processing time was nearly 108 business days. Our review disclosed that for 5 of the 10 FOIA requests, delays in processing were due to magnitude, sensitivity, complexity, or location of the requested records. For the remaining 5 requests, processing delays for 3 requests were mainly attributable to divisions and offices not always being timely in their responses and, for 2 requests, delays were due to OES taking longer than its allotted time to review responses received from the divisions or offices.

OES provided us a database summary of 33 FOIA requests that were more than 4 months outstanding as of June 30, 1998. We reviewed 32 of the 33 FOIA requests because OES was unable to locate the file for one FOIA request. Of the 13 requests processed under FOIA, 11 requests were closed during the course of our review. The median processing time was 323 business days. Of the 19 requests processed under E-FOIA, 12 requests were closed during the course of our review. The median processing time was 173 business days. In reviewing the files, we found that the causes for the delays were mainly attributable to

- divisions and offices not always being timely in their responses,
- reassignment of requests from FOIA Specialists who left the Corporation,
- responses undergoing lengthy supervisory review,
- requested records requiring extensive review and redacting, or
- OES not addressing the request.

## ***OES's Communications with FOIA Requesters***

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OES did not regularly contact FOIA requesters to arrange for an extension of time in which to respond. Further, our review of OES's FOIA administrative files disclosed instances of delayed FOIA responses with either no record of contact with the requesters to communicate the delays or contact with the requester long after delays had already occurred. FOIA and E-FOIA provide exceptions to the 10- and 20-business day response period requirement. OES officials told us that, as a matter of practice, OES did not use FOIA or E-FOIA provisions that allow extensions of time limits.

FOIA provided that, in unusual circumstances such as the volume of records sought, the time limit for responding to a FOIA request may be extended for a period of 10 business days. The FOIA Amendments (E-FOIA) supplemented this provision. E-FOIA provides that an agency notifying a requester of "unusual circumstances" may specify that additional time is required, and offer the requester the opportunity to limit the scope of the request and/or to arrange with the agency an alternative time limit for processing the request or a modified request. FDIC's FOIA regulations, 12 CFR Part 309, include this provision. The CFR adds that the alternative time period is one that is either agreed to by the requester, or reasonably determined by the FDIC when the Corporation notifies the requester that the request cannot be processed in the specified time limit. Under FOIA, if an agency could show in court that its failure to meet statutory time limits resulted from "exceptional circumstances" and that it was applying due diligence in processing the request, the agency was generally allowed additional time to process the request. A factor in showing "exceptional circumstances" is whether the requester refuses to reasonably modify the scope of the request or to arrange an alternative time limit.

We discussed the issue of time extensions with OIG Counsel, who pointed out that the time provision is consistent with the congressional belief, as stated in H.R. Rep. 104-795, that "the FOIA works best when requestors and agencies work together to define and fulfill reasonable requests. When a requestor can modify a request to make it easier for the agency to process it, this benefits everyone." OIG Counsel further noted that, in light of congressional interest in the timeliness of responses to requesters, and to protect the agency's position should litigation ensue, it is important for an agency to document its efforts to comply with FOIA's provisions regarding notice to the requester, whether under the 10-day option or the negotiated scope or time limit option. According to OIG Counsel, compliance with these provisions would help the agency demonstrate its good faith and diligence in dealing with the requester.

OES officials told us that they did not use the extension of time provision because letters requesting extensions would have to be fairly individualized, thus placing additional work on the limited FOIA resources in OES. In addition, according to OES officials, the FOIA Specialists generally had frequent communications with FOIA requesters, so formal requests for extensions might not have been necessary. However, as noted below, we found instances where the FOIA requester was not always notified about delays in responding to FOIA requests. Further, FDIC might have been missing opportunities to formally establish more realistically achievable time limits for responding to FOIA requests that were complex in nature. We recommended that OES request that the Legal Division study whether it would be in the best interest of the Corporation for OES, when warranted, to send letters requesting extensions of time for responding to FOIA requests. The study should determine whether such formal time extensions would be beneficial to proving the Corporation's good faith effort

in complying with FOIA and E-FOIA.

In our review of OES's administrative files for the 131 FOIA requests in our sample, we found 34 instances where FOIA responses exceeded the 10- or 20-business day time limit and there was no record of contact with the requesters to communicate the delays or contacts with requesters were made long after delays had already occurred. Twenty-three of the 34 requests were FOIA requests, subject to the 10-business day response time limit. If the file contained an entry in the telephone log, we credited OES as having communicated with the requester, despite the fact that the log may have contained no additional information other than the fact that the requester was called. We discussed the 34 requests with the FOIA Specialists and the Senior FOIA Attorney, who told us that for one of the requests they recalled contacting the requester, but the files did not contain a record of contact. Sixteen of the 34 requests were processed by the FOIA Specialists who left the FOIA unit in April 1998, so we had to rely on file documentation alone to conclude that contacts with requesters were not made. Six of the 34 requests were from the media, and FOIA Specialists told us that FOIA management did not allow the Specialists to contact any media requesters due to a prior release of unauthorized information. OES stated in their response to a draft of this report that the previous policy of "no contact with media requesters by the FOIA Specialists" has been abolished, although proper controls are in place to limit the contact to FOIA matters and inform the Office of Corporate Communication when appropriate.

During our exit conference with OES, we discussed the need for OES to improve communications with requesters. We recommended that OES contact FOIA requesters to inform them of delays in processing their FOIA requests, or when it is expected that delays will occur. We also recommended that such contacts be documented in the administrative FOIA files.

## ***The FOIA Appeals Process***

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With respect to OES's involvement in the processing of administrative FOIA appeals, we found that OES recorded receipt of FOIA appeals in a timely manner. Further, in the revisions to Circular 1023.1, OES expanded the provision regarding documenting division and office record searches. Such documentation is necessary to facilitate FDIC's General Counsel's review of, and ultimate decision on, an administrative FOIA appeal. However, we found that OES was not always timely in providing documentation to the General Counsel it needed for handling appeals. Further, OES did not always have current information on the status of the FOIA appeals being tracked in OES's FOIA tracking system. OES corrected this situation during the course of our review by initiating monthly status checks with the Office of General Counsel.

Under FOIA and E-FOIA, an agency is required to make a determination on an administrative appeal within 20 business days. FDIC's FOIA regulations provide that all appeals arising from partial or total denials of requests for records should be addressed to OES. Upon receipt of the appeal, OES dates, time stamps, and assigns a log number to the appeal, thus commencing the 20-business day time limit for processing. As a matter of practice, OES prepares an "Appeal Memo" that summarizes the activities related to responding to the original FOIA request. OES transmits the "Appeal Memo" and supporting documentation such as the original FOIA request, FDIC's response, the appeal letter, and other related information to the General Counsel for a determination as to whether the original withholding was in accordance with the law. OES also notifies the division or office maintaining the records that an appeal has been filed. From that point on, the General Counsel, not OES, is responsible for all time limits concerning FOIA appeals. The General Counsel notifies the appellant, in writing, of the determination to grant or deny the appeal, and provides a copy of the decision to OES.

We randomly selected 14 appeals for our review, and determined that FDIC had responded to 14 percent of these appeals within the 20-business-day time limit. Processing time ranged from 6 business days to 227 business days. We determined that some of the delays in responding to the appeals were due to OES not timely submitting the appeal to the General Counsel, or divisions and offices not adequately conducting searches when responding to the initial FOIA request. OES took a median of 4 business days and an average 6 business days to send the "Appeal Memo" and supporting documentation to the General Counsel. In addition, for one appeal, OES did not send a copy of the original request, and all documents, redacted and unredacted, pertaining to the original request to the General Counsel. We recommended that when OES updates its *FOIA Deskbook*, OES consider including a provision related to submitting appropriate documentation timely to the General Counsel for appeal processing.

As mentioned before, divisions and offices did not always conduct an adequate search of corporate documents to satisfy requests. Courts have held that an agency must show that good faith efforts were made to conduct searches for the requested records, using methods that can be reasonably expected to produce the information requested. Adequacy of an agency's search under FOIA and E-FOIA is determined by a test of "reasonableness," which may vary from case to case. As a general rule, an agency must undertake a search that is "reasonably calculated" to locate the requested records and, if challenged in court, must be able to show what records were searched, by whom and through what process.

There were instances when the General Counsel had to ask the divisions/offices to conduct another search of documents that may be responsive to the request. OES addressed this concern by including more detailed guidance on documenting record searches in the revision to Circular 1023.1. We also recommended that OES, as part of the training program mentioned in recommendation 5, include a session on appeals and records searches.

We also found that OES did not always have current information on FOIA appeals. As a result, OES ran the risk of reporting inaccurate information on appeals in FDIC's annual FOIA report to the Congress. Also, before our review, OES and General Counsel did not routinely reconcile their records of appeals outstanding. For example, OES's tracking system showed that 6 of the 14 appeals we reviewed were still open as of June 30, 1998. Through our discussions with an Office of General Counsel official, we determined that the General Counsel had issued determinations for 3 of the 6 prior to June 30, 1998. During the course of our review, OES started sending a monthly status report of outstanding appeals to the General Counsel for reconciliation purposes.

## **Quarterly Status Reports to the Chief Operating Officer (COO)**

When the FOIA program at Resolution Trust Corporation (RTC) was merged into FDIC's FOIA program in December 1995, the COO became aware of a significant backlog of FOIA requests. As a result, the COO requested that OES prepare and send him a quarterly status report of all outstanding FOIA requests. Preparing a quarterly report for the Chairman was a recommendation from the OIG's *Audit of FDIC's Processing of Freedom of Information Act Requests* in February 1993. OES's report lists the number of total requests outstanding and then is further broken down into sub-categories, such as requests under 1 month old, requests under 2 months old, requests 2-4 months old, and requests 12 months and older. The report also gives the number of outstanding requests per division or office. Before submitting the report to the COO, OES sent each division and office information on how many requests they had outstanding, including the date OES received the FOIA request, to allow divisions and offices to update the information.

We compared the total number of requests outstanding reported on the 2<sup>nd</sup> quarter 1998 *FOIA Quarterly Report* as of June 30, 1998 with the database listing of requests that was provided to us by OES. The quarterly status report showed 137 total requests outstanding. However, the database listing showed that there were 118 total requests outstanding. We could not reconcile the differences because OES's supporting documentation for the quarterly report did not include the database listing or any other type of support for the total number of 137 requests outstanding. Thus, we were unable to express an opinion on the accuracy of the total number of requests outstanding as of June 30, 1998, as reported to the COO.

Further, OES's quarterly status reports did not include any statistics or status regarding FOIA appeals. The Assistant General Counsel prepares a biweekly deadline report and a monthly status report of all on-going matters, both of which include FOIA appeals, and submits the reports to the General Counsel. However, the COO did not receive this information on FOIA appeals. Given OES's responsibility for tracking FOIA appeals, we believed OES's quarterly report to the COO should include statistics and status on FOIA appeals. We recommended that OES include FOIA appeals statistics and status in its quarterly reports to the COO.

We reviewed the database listing of requests provided to us by OES and found that there were 46 appeals outstanding as of June 30, 1998. The General Counsel's report showed that 24 of the 46 appeals were closed prior to June 30, 1998, 15 were still open, and no record was shown for 7 appeals. The General Counsel report also showed 2 FOIA appeals that were not included on the database listing. We discussed these differences with OES, who informed us on December 9, 1998, that they reconciled their appeals inventory with the General Counsel's records. As previously mentioned, during the course of our review, OES initiated monthly status checks with the Office of General Counsel for reconciliation purposes.

## ***Case Filing and Information Tracking System***

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OES's FOIA administrative files generally contained adequate documentation of activities conducted to respond to FOIA requests. However, we identified some instances when files did not contain pertinent documents, such as division and office responses, or lacked a record of any activity for long periods of time. Without a complete record of activities leading to a FOIA response, FDIC ran the risk of being unable to demonstrate good faith efforts to respond to FOIA requests as promptly as possible.

With regard to OES's FOIA tracking system, we found that data in the FOIA STAR database were generally accurate and supported by documents in the administrative files. However, some of the database fields were not being used for their intended purposes, and additional database fields were needed to help OES monitor FOIA responses. The Corporation will be replacing the FOIA STAR database as part of its Knowledge Management Project. As a result, we recommended that OES make interim enhancements to STAR, only if it is cost beneficial to do so.

### **FOIA Request Administrative Files**

OES maintains a case file for each FOIA request received by FDIC. These administrative files contain information on the various activities involved in responding to FOIA requests. A typical FOIA case file includes the following documents:

- FOIA request letter or electronic mail,
- FOIA Case File Tracking Sheet,
- FOIA Telephone Contact List,
- Control Record (FDIC Form 1023/01) used to refer FOIA requests to divisions and offices,
- electronic mail and memoranda communications to and from divisions and offices,
- FDIC letter of interim and final responses to requester, and
- fee estimates.

We reviewed OES's FOIA case files for the FOIA requests in our sample, and found that the FOIA administrative files generally contained most of the documents listed above. However, for 33 of the 131 opened and closed FOIA requests we reviewed, we found that the files did not contain all pertinent FOIA processing documentation. For example, 22 FOIA request files had no record of activity on the FOIA request for long periods of time. Some of these FOIA requests had no record of activity for as long as 9 to 12 months. Eleven of 14 files did not contain division or office responses, and three files were missing documentation to support the disposition. As previously mentioned, we reviewed 34 files where there was no record of any contacts with the requester to inform the requester of delays in processing the request.

OES did not have guidance specifically related to preparing and maintaining its administrative files for FOIA requests. We reviewed OES's *FOIA Deskbook* on FOIA internal procedures, but we did not locate any reference to preparation and contents of administrative files. In the comments we provided to OES regarding proposed revisions to Circular 1023.1, we noted that the directive did not mention OES's FOIA administrative files or address OES's responsibilities for retaining administrative records on FOIA requests.

OES FOIA case files can help ensure that an adequate administrative record exists on the extent of

record searches, processing activities, and FDIC's response to FOIA requests. In addition, an OES FOIA case file may be used for future reference on subsequent related requests or an appeal, or for preparing supporting documentation for any related FOIA litigation. To help ensure that FOIA administrative files are complete and contain a record of all pertinent activities leading to the FOIA response, we recommended that OES issue an internal policy memorandum to its FOIA staff outlining requirements for documenting FOIA activities.

## **STAR Database Management System**

OES currently relies on the FOIA STAR database to track FOIA requests and actions taken to fulfill FOIA requests. For our review of the FOIA requests closed and opened during January 1, 1997, through June 30, 1998, and the requests still pending as of June 30, 1998, we compared selected data in the FOIA STAR database to information contained in OES's administrative files. Specifically, of the approximately 100 data elements contained in the database, we tested the following:

- FOIA log number,
- name of requester,
- requester's address,
- date of request,
- date request received by OES,
- date referred to applicable division or office for response,
- date OES received response from division or office, and
- date response sent to requester.

We found that, except for the referral date that we discuss later, the information we checked in the database was generally accurate. For example, we traced the "Received date" in the database to the date stamped on the FOIA request letter or electronic mail contained in the administrative files, and, with just one exception, found that the dates in the database were accurate. We discussed the few exceptions we noted with OES officials.

We also determined that some of the FOIA STAR database elements were not always being used for their intended purposes. For example, the data dictionary for the FOIA STAR database indicated that the "Referral date" in the database should reflect the date the request was assigned to a division or office. However, OES used this field to record the date the FOIA request was logged into the system, which may or may not be the same day the request was referred to a division or office for response. As another example, the "Due date" field was automatically computed by adding 10 business days response time to the request "Received date." However, the FOIA STAR database had a field called "Proceed date" which OES told us was used to reflect the date a request was perfected. Thus, the "Proceed date" seemed to be the appropriate starting date to use to compute the date the FOIA response was due. Further, the "Due to OES date" in the FOIA STAR database was calculated automatically by adding 8 business days to the "Proceed date." However, OES was not using this field as a means for tracking division and office responses.

Finally, the FOIA STAR database contained a data field called "Coordinate with," which was intended



to reflect the organization code of the lead division when a FOIA request was referred to more than one division or office for responses. None of the 131 opened and closed FOIA requests we reviewed contained a value in the “Coordinate with” data field, despite the fact that 39 of the 131 requests were assigned to multiple divisions and offices.

We also determined that the FOIA STAR database did not contain certain data fields that we believed could be helpful to OES in monitoring its time limits for responding to FOIA requests. For example, there was no field to reflect the date: a FOIA request was logged into the system, a fee estimate letter was sent to a FOIA requester, or a response was due back from the requester regarding the fee estimate. In addition, the FOIA STAR database was not capturing the “No Records” disposition category for FOIA responses that fell into this category. OES had categorized this type of response as a “Grant” because FOIA STAR database did not have a “No Records” disposition field. Proper categorization is critical for purposes of accurately reporting statistics in FDIC’s annual FOIA report to the Congress. Agencies are required to report the disposition of initial FOIA requests for records, including the number of full grants, partial grants, and denials. When we brought this matter to the attention of OES officials, OES told us they would add the “No Records” element to the disposition data field in FOIA STAR database.

The Corporation has initiated efforts to eventually replace the FOIA STAR database. FDIC has included the FOIA function in the KM Project, the Corporation’s initiative to implement a corporate-wide technical infrastructure to support electronic document management systems, data workflow, and imaging technologies. Specifically, FDIC plans to design, develop, implement, and maintain an FOIA application that will be integrated into the Corporation’s KM infrastructure. According to the draft functional requirements document dated September 24, 1998, the successful implementation of the FOIA system will help FDIC accomplish the following goals:

- improve FDIC’s responsiveness to FOIA requests;
- provide the capability of sending responses to FOIA requests in the format requested;
- allow the FDIC to perform redactions electronically, with the resulting document indicating the volume of material redacted and the reason for each redaction;
- give FDIC the capability of electronically forwarding frequently requested documents to the electronic reading room, and
- improve the FDIC’s ability to process requests in a timely and efficient manner.

Time frames for testing the new FOIA system are uncertain, pending the completion of the KM development facility. Once FDIC has the KM development facility in place and can start testing the KM infrastructure, FDIC will be better able to determine the time frames for testing the FOIA application, which is dependent on the infrastructure. As a result, we recommended that OES make interim enhancements to the FOIA STAR database to address the system issues that we have identified, only if such modifications are cost beneficial.

## ***Conclusions and Recommendations***

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OES had taken actions to improve its FOIA processing time. OES eliminated the preliminary supervisory review of FOIA requests and established the practice of the FOIA Technician directly receiving FOIA requests. OES also delegated authority to its FOIA Specialists to issue certain types of FOIA responses, thus eliminating the time required for supervisory review and signature.

OES also reduced its 1996 backlog of nearly 700 pending FOIA requests to 151 requests outstanding as of mid-November 1998, and undertook numerous initiatives to implement E-FOIA.

OES experienced some delays in responding to FOIA requests in 1997 and the first half of 1998. Consequently, OES ran the risk of not fulfilling its commitment to the public to promptly respond to FOIA requests, and not meeting the statutory time limits prescribed for responding to FOIA requests. We identified opportunities for OES to accelerate the turnaround time for FOIA responses to better meet the legislative time limits as often as practicable.

Our conclusions related to OES's timeliness in responding to FDIC's FOIA requests are presented in the context of recognizing that circumstances may have precluded OES from being able to respond to all FOIA requests within the 10- or 20-business day time limit. We focused our efforts on identifying methods to accelerate the turnaround time on FOIA requests, and to ensure that FDIC can demonstrate good faith efforts in responding to the requests as promptly as possible. Accordingly, we recommended that the Executive Secretary direct the FOIA unit to:

- (1) Refer FOIA requests to FDIC divisions and offices as soon as possible, but not later than 1 day after the request is deemed to be in compliance with FDIC FOIA regulations.
- (2) Arrange for direct delivery (hand-carried) of FOIA referrals to FDIC divisions and offices. In the event that direct delivery services are not available, OES should transmit the referral via facsimile, mail the original FOIA request to the divisions and offices as soon as possible, and send an electronic mail notification to confirm the request was received.
- (3) Confer with FOIA contacts in divisions and offices to explore the possibility of direct delivery of responses, or alternative, more expedient, means of transmitting the responses to OES.
- (4) Routinely seek status from FDIC FOIA contacts regarding a division's or office's progress in responding to FOIA requests. OES should seek status before the allotted time for responding has expired if no response has been received.
- (5) Develop, in consultation with FDIC's Training and Consulting Services Branch, a FOIA training program to ensure that FDIC personnel responding to FOIA requests are knowledgeable of relevant rules and regulations regarding FOIA. The FOIA training program should include areas such as: updates on legal requirements; standard operating instructions on determining cost estimates; FDIC's disclosure policies; fee categorizations, invoicing, fee waivers, and fee waiver grants/denials; and annual reporting to Congress.

FOIA legislation allows for an extension of the time limit for responding to FOIA requests. OES, as a matter of practice, did not use this provision because formal communications with requesters to seek

extensions would place additional work on the limited FOIA resources. According to OES, the FOIA Specialists generally had frequent communications with FOIA requesters, so formal requests for extensions might not have been necessary. However, we found instances where OES did not notify FOIA requesters of delays in processing their requests. By not requesting extensions of time or at least communicating delays in processing to the FOIA requesters, OES might have been missing opportunities to establish more realistic time limits for responding to FOIA requests that were complex in nature. Thus, we recommended that the Executive Secretary:

- (6) Request that the Legal Division study whether it would be in the best interest of the Corporation for OES, when warranted, to send letters requesting extensions of time for responding to FOIA requests. The study should determine whether such formal time extensions would be beneficial to proving the Corporation's good faith effort in complying with FOIA and E-FOIA.
- (7) Direct the FOIA unit to contact FOIA requesters to inform them of delays in processing their FOIA requests, or when it is expected that delays will occur. All contacts with requesters should be documented in the FOIA administrative files.

With respect to OES's involvement in the processing of administrative FOIA appeals, OES was prompt in recording receipt of FOIA appeals. In addition, OES's revisions to Circular 1023.1 included enhanced guidance for documenting records searches that should help improve the processing time of FOIA appeals. OES also started the practice of seeking monthly status checks with the Office of General Counsel to ensure the tracking system had the most current information on FOIA appeals. OES could have been more prompt in transmitting FOIA appeals and related documentation to FDIC's General Counsel for determination as to whether the original withholding of records was in accordance with the law. In addition, OES and the General Counsel needed to work together to ensure that copies of documents released to FOIA requesters were filed, and record searches were adequately documented. Accordingly, we recommended that the Executive Secretary take the following actions:

- (8) At the next update of the *FOIA Deskbook*, consider including a provision related to timely submission of appropriate documentation to the General Counsel for appeals processing to allow the General Counsel sufficient time to respond to the appeal within the legislative time period.
- (9) In concert with Recommendation 5, include a session on appeals and records searches in the FOIA training program.

OES prepared and submitted quarterly status reports to the COO on the overall results of processing FOIA requests. These reports did not include statistics on, or status of, FOIA appeals. Because OES is responsible for tracking FOIA appeals in its FOIA STAR database, we believed OES's quarterly reports to the COO should include information on FOIA appeals. Accordingly, we recommended that the Executive Secretary direct the FOIA unit to:

- (10) Include statistics and status regarding FOIA appeals in its quarterly reports to the COO.

OES's FOIA administrative files generally contained adequate documentation of activities conducted to respond to FOIA requests. Some of the files did not contain pertinent documents or explanations for lapses of time where there appeared to be no activity. The lack of pertinent documentation in the

FOIA administrative files could have limited the files' usefulness as future reference for subsequent related FOIA requests or appeals, and could have made it more difficult to prepare supporting documentation for any related FOIA litigation. To help ensure that the Corporation maintains complete records of all pertinent activities leading to its FOIA responses, we recommended that the Executive Secretary:

- (11) Issue an internal policy memorandum to the OES FOIA staff outlining requirements for documenting FOIA activities.

With regard to OES's FOIA tracking system, we found that data in the FOIA STAR database were generally accurate and supported by documents in the administrative files. However, some of the database fields were not being used for their intended purposes, and additional database fields were needed to help OES monitor FOIA responses. The Corporation will be replacing the FOIA STAR database as part of its Knowledge Management Project. As a result, we recommended interim enhancements to STAR, if it is cost beneficial to do so. Specifically, we recommended that the Executive Secretary:

- (12) Direct the FOIA unit to study whether the benefit of adding the following data elements to the FOIA STAR database outweigh the costs in light of the Corporation's Knowledge Management Project:

- a log-in date field,
- a due date field to specifically identify the date a response is due to OES from the division or office (for multiple division requests, a separate due date field should be identified for each division or office responding),
- date on which a fee estimate letter is mailed to the requester, and
- due date for response from requester regarding the fee estimate.

In those instances where the benefits are greater, OES should implement the modifications as soon as possible.

## ***Corporation Comments and OIG Evaluation***

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On February 12, 1999, the Executive Secretary, provided OES's response to a draft of this report. The response is presented in Appendix I of this report. Of the 12 report recommendations, OES agreed with 10 recommendations, and agreed partially with the remaining two recommendations. OES's written response and subsequent information it provided to us, along with actions already taken, planned actions, and alternate courses of action, provided the requisite elements of a management decision for each of the 12 recommendations. For the two recommendations to which OES partially agreed, the response adequately supported OES's position.

A summary of OES's response to recommendations 5 and 9 and our analysis follows. OES's response to recommendations 1 through 4, 6 through 8, and 10 through 12 are not summarized because the actions planned or taken are the same as our recommendations.

**Develop, in consultation with FDIC's Training and Consulting Services Branch, a FOIA training program to ensure that FDIC personnel responding to FOIA requests are knowledgeable of relevant rules and regulations regarding FOIA. The FOIA training program should include areas such as: updates on legal requirements; standard operating instructions on determining cost estimates; FDIC's disclosure policies; fee categorizations, invoicing, fee waivers, and fee waiver/grants/denials; and annual reporting to Congress (recommendation 5):**

OES agreed in part with this recommendation. OES responded that while it is determined that all FDIC employees working on FOIA matters be properly trained, its concern is whether the efforts necessary to put a formal training program in place would result in attendance commensurate with the endeavor. OES noted that many FDIC employees only work on FOIA matters rarely, and most employees never have any contact with the FOIA. According to OES, the needs of staff who only occasionally contact FOIA issues may be able to be met with ongoing OES training efforts, communication with their division or office FOIA contact person on specific issues, and the introductory FOIA course taught by DOJ at no cost.

OES responded that, during calendar year 1998, the OES FOIA Unit conducted three training sessions for FDIC employees, which addressed many of the topics referenced in recommendation 5. In addition, the Senior FOIA Attorney held a meeting in January 1999 for all OES FOIA staff and all division and office FOIA contact staff. This meeting included OES training on the topics of FOIA exemptions, fee waivers, and interface of the FOIA and the Privacy Act of 1974. During the January 1999 meeting, the division and office FOIA contact staff were asked for their thoughts on formalizing and increasing the FOIA training efforts. OES is awaiting the responses from this group and plans to follow-up on this query within the next several weeks. The FOIA Unit plans to send reminders to all FOIA contact staff regarding availability of DOJ's no-cost FOIA training. The FOIA unit also plans to disseminate a DOJ training syllabus to FOIA contact staff. OES's response adequately addressed the recommendation and contained all the requisites of a management decision.

**In concert with recommendation 5, include a session on appeals and records searches in the FOIA training program (recommendation 9):** OES responded that it agreed that records search issues are an important component of any FOIA training program and expects to issue guidance among the divisions and offices on appeals and records searches. Because the record search procedures are more defined in the newly issued FOIA Directive, OES is anticipating increased queries from the

divisions and offices and plans to include these topics in any training offered. As stated in the analysis of recommendation 5, OES is awaiting the responses from the division and office FOIA contacts regarding their opinion on the need for a formal training program. OES's response was sufficient to reach a management decision on this recommendation. OES informed us that, subsequent to preparing the written response to our draft report, it had issued written guidance on records searches. OES also indicated that additional guidance on appeals would be prepared after consultation with Legal.

***Appendix I: Corporation Comments***

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## ***Appendix II: Management Response to Recommendations***

This table presents the management responses that have been made on recommendations in our report and the status of management decisions. The information for management decisions is based on management's written response to our report from OES Management.

<b>Rec. Number</b>	<b>Corrective Action: Taken or Planned / Status</b>	<b>Expected or Actual Completion Date</b>	<b>Documentation that will confirm final action</b>	<b>Monetary Benefits</b>	<b>Management Decision: Yes or No</b>
1	<ul style="list-style-type: none"> <li>OES established an expedited review of all FOIA requests by the FOIA technician and immediate delivery to the division or office in most cases, except for sensitive or complex requests which are reviewed by the Senior FOIA Attorney prior to assignment.</li> <li>OES has cross-trained a second staff member, the FOIA Assistant, to be able to carry out this function in the FOIA Technician's absence.</li> </ul>	2/12/99  2/12/99	Results of periodic assessments of FOIA referrals to divisions and offices.  Not applicable.	\$0	Yes
2	<ul style="list-style-type: none"> <li>OES surveyed all division and office contacts to determine if they are receiving their FOIA requests in a timely manner. There has been an occasional problem with two divisions that has been corrected.</li> <li>OES believes that transmitting FOIA requests via imaging the documents and sending them through Microsoft Outlook is a superior method to facsimile transfer. The imaging and transmission of requests is one of the very early goals of the KM Pilot Project.</li> </ul>	2/12/99  4 <sup>th</sup> Quarter 1999	Results of survey of division and office contacts.  KM Project FOIA application activity reports.	\$0	Yes

Rec. Number	Corrective Action: Taken or Planned / Status	Expected or Actual Completion Date	Documentation that will confirm final action	Monetary Benefits	Management Decision: Yes or No
3	<ul style="list-style-type: none"> <li>• Some of the Divisions and offices already hand-deliver their FOIA responses to OES. OES contacted the remaining divisions and offices to explore the possibility of their direct delivery of FOIA responses or by some other, alternative, more expedient methods. OES is awaiting feedback.</li> <li>• OES will be reviewing the imaging of records and their subsequent transmission via the e-mail system within the context of the ongoing KM Pilot Project.</li> </ul>	<p>2/24/99</p> <p>12/99-01/00</p>	<p>Division and office responses to OES contacts.</p> <p>KM Project FOIA application activity reports.</p>	\$0	Yes
4	<ul style="list-style-type: none"> <li>• The FOIA Senior Attorney instructed FOIA staff to seek status reports from all divisions and offices prior to or at the time the FOIA response is due.</li> <li>• The FOIA Senior Attorney will also discuss adding an automatic “tickler” system as a feature to the new FOIA database with knowledgeable OES staff and KM staff at DIRM.</li> <li>• The Executive Secretary has signed revised Circular 1023.1. The Senior FOIA Attorney issued a detailed memorandum to all FOIA contact staff, which addressed the division and office requirements and expectations under the new Circular. This matter will also be further discussed at upcoming FOIA meetings with all contact staff.</li> </ul>	<p>2/12/99</p> <p>12/99-01/00</p> <p>2/24/99</p>	<p>Periodic status reports.</p> <p>FOIA system documentation.</p> <p>OES Senior FOIA Attorney memorandum to FOIA Contacts.</p>	\$0	Yes
5	<ul style="list-style-type: none"> <li>• OES included in a 2/24/99 memorandum to all FOIA contacts a reminder of the no-cost training that the Department of Justice offers on FOIA. A training syllabus will also be disseminated to FOIA contact staff.</li> <li>• OES has queried the division and office contacts regarding the need/interest in a formal training program on FOIA.</li> </ul>	<p>3/31/99</p> <p>3/31/99</p>	<p>Memorandum.</p> <p>Division and office responses to OES regarding formal training program on FOIA.</p>	\$0	Yes



Rec. Number	Corrective Action: Taken or Planned / Status	Expected or Actual Completion Date	Documentation that will confirm final action	Monetary Benefits	Management Decision: Yes or No
6	<ul style="list-style-type: none"> <li>OES contacted the Legal Division on 2/24/99 to request that it begin studying whether it is in the Corporation's best interest, when warranted, to send letters requesting extensions. OES and Legal will be discussing the matter in the next few weeks.</li> <li>The new FOIA Circular calls for contact with FOIA requesters for extensions of time under certain circumstances.</li> </ul>	<p>1<sup>st</sup> Quarter 1999</p> <p>2/11/99</p>	<p>Documented results of study.</p> <p>Revised FDIC Circular 1023.1</p>	\$0	Yes
7	<ul style="list-style-type: none"> <li>The Senior FOIA Attorney directed the FOIA Unit staff to make contact with all FOIA requesters on a consistent basis when delays are anticipated. This will be addressed in the next update of the <i>FOIA Deskbook</i>.</li> </ul>	3 <sup>rd</sup> Quarter 1999	Updated <i>FOIA Deskbook</i> .	\$0	Yes
8	<ul style="list-style-type: none"> <li>A more detailed written policy on the transmission of appeals to the General Counsel will be included in the next update of the <i>FOIA Deskbook</i>.</li> </ul>	3 <sup>rd</sup> Quarter 1999	Updated <i>FOIA Deskbook</i> .	\$0	Yes
9	<ul style="list-style-type: none"> <li>Guidance on records searches was included in a 2/24/99 memorandum to FOIA contact staff. OES expects to issue guidance on appeals after consultation with the Legal Division and will include topics in any training offered. As stated in recommendation number 5, OES has queried the divisions and offices on the need for a formal training program.</li> </ul>	2 <sup>nd</sup> Quarter 1999	Guidance.	\$0	Yes
10	<ul style="list-style-type: none"> <li>OES will start including FOIA appeals statistics on the next Quarterly FOIA Report to the COO.</li> </ul>	3/31/99	First Quarter 1999 Quarterly FOIA Report.	\$0	Yes
11	<ul style="list-style-type: none"> <li>The Senior FOIA Attorney will be drafting or updating existing memoranda to the FOIA staff outlining the requirements for documenting FOIA files and activities. It will be included in the next update of the <i>FOIA Deskbook</i>.</li> </ul>	3 <sup>rd</sup> Quarter 1999	Updated <i>FOIA Deskbook</i> .	\$0	Yes

Rec. Number	Corrective Action: Taken or Planned / Status	Expected or Actual Completion Date	Documentation that will confirm final action	Monetary Benefits	Management Decision: Yes or No
12	<ul style="list-style-type: none"> <li>OES is considering the issue of adding new fields to the STAR database and has discussed it with OES Archiving and Indexing staff, and will consult DIRM. If STAR is not updated, the new fields will be added to the new FOIA database being developed under the KM project.</li> </ul>	2 <sup>nd</sup> Quarter 1999	STAR database dictionary.	\$0	Yes



*Appendix I: Best Practices Matrix: Summary of the Information Gathered From Six Federal Agencies.*

	Department of Justice (DOJ)	Department of Treasury (Treasury)	
<b>FOIA Program</b>	<ul style="list-style-type: none"> <li>Decentralized</li> </ul>	<ul style="list-style-type: none"> <li>Decentralized</li> </ul>	<ul style="list-style-type: none"> <li>C</li> </ul>
<b>Number of Employees</b>	<ul style="list-style-type: none"> <li>7</li> </ul>	<ul style="list-style-type: none"> <li>4 employees in Washington, DC</li> </ul>	<ul style="list-style-type: none"> <li>7</li> <li>3</li> <li>a</li> <li>1</li> <li>F</li> </ul>
<b>Number of requests per year</b>	<ul style="list-style-type: none"> <li>1,200-1,300</li> </ul>	<ul style="list-style-type: none"> <li>1,000</li> </ul>	<ul style="list-style-type: none"> <li>3</li> </ul>
<b>Tracking System</b>	<ul style="list-style-type: none"> <li>ORACLE, a shared database that can cross reference information within the database.</li> </ul>	<ul style="list-style-type: none"> <li>MS Access-not a shared system.</li> </ul>	<ul style="list-style-type: none"> <li>I</li> <li>s</li> <li>v</li> <li>F</li> <li>h</li> <li>U</li> <li>F</li> </ul>
<b>FOIA Program Goals</b>	<ul style="list-style-type: none"> <li>Process FOIA requests within statutory time frames.</li> </ul>	<ul style="list-style-type: none"> <li>FOIA training for program office employees responsible for FOIA</li> <li>Comply with electronic reading room requirements</li> <li>Make program offices aware of FOIA priority and customer service</li> </ul>	<ul style="list-style-type: none"> <li>T</li> <li>a</li> <li>F</li> <li>T</li> <li>F</li> <li>T</li> <li>k</li> <li>T</li> <li>F</li> <li>a</li> </ul>

*Best Practices Matrix (Continued)*

	Department of Justice (DOJ)	Department of Treasury (Treasury)	
<b>Agency Advice</b>	<ul style="list-style-type: none"> <li>Educate offices and divisions to FOIA</li> <li>Have a good tracking system that provides cross referencing to records and input to the annual report</li> <li>Proforma letters with boilerplate language helps expedite the</li> </ul>	<ul style="list-style-type: none"> <li>A decentralized FOIA processing operation with no specific FOIA staff works well</li> <li>Policy offices process their own FOIA requests</li> <li>Frequent training</li> </ul>	<ul style="list-style-type: none"> <li>T</li> <li>v</li> <li>I</li> <li>d</li> <li>r</li> <li>e</li> <li>F</li> <li>a</li> </ul>

	<p>processing</p> <ul style="list-style-type: none"> <li>• Optical Scanning Systems (CIA, NASA and FBI have good systems)</li> <li>• Good administrative records are very important (especially in litigation)</li> <li>• Coordination with components</li> <li>• Advertising/marketing the FOIA operation, e.g. pamphlets</li> <li>• Rating employees to include FOIA responsiveness as an element for annual appraisals</li> </ul>		
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*Best Practices Matrix (Continued)*

	National Credit Union Administration (NCUA)	Office of Comptroller of the Currency (OCC)	
<b>FOIA Program</b>	<ul style="list-style-type: none"> <li>• Decentralized</li> </ul>	<ul style="list-style-type: none"> <li>• Centralized</li> </ul>	<ul style="list-style-type: none"> <li>• C</li> </ul>
<b>Number of Employees</b>	<ul style="list-style-type: none"> <li>• 10</li> </ul>	<ul style="list-style-type: none"> <li>• 6 full-time</li> <li>• 2 part-time</li> </ul>	<ul style="list-style-type: none"> <li>• 6</li> </ul>
<b>Number of requests per year</b>	<ul style="list-style-type: none"> <li>• 600-700</li> </ul>	<ul style="list-style-type: none"> <li>• 5,585 (includes 1,713 FOIA request, 2,661 reading room requests, and 1,211 certifications as of 8/98).</li> </ul>	<ul style="list-style-type: none"> <li>• 1</li> </ul>
<b>Tracking System</b>	<ul style="list-style-type: none"> <li>• In the process of developing a new tracking system, designed in house that will be Access based. The system will be shared by the various FOIA units with each regional office having access to their own records.</li> </ul>	<ul style="list-style-type: none"> <li>• Lotus Approach, an off-the-shelf FOIA package that can be purchased at any store. It can be customized for an agency's specification. According to OCC, this system is very user friendly.</li> </ul>	<ul style="list-style-type: none"> <li>• C</li> <li>• I</li> <li>• d</li> <li>• I</li> <li>• i</li> <li>• a</li> <li>• f</li> <li>• t</li> </ul>
<b>FOIA Program Goals</b>	<ul style="list-style-type: none"> <li>• General agreement that the goal is to respond to FOIAs within the 10-day time frame originally established for FOIA responses.</li> <li>• Conduct a 2 day training conference on E-FOIA and substantive FOIA issues to be held annually for NCUA employees involved in FOIA activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Give prompt and courteous service to customers</li> <li>• Meet deadlines under FOIA</li> <li>• Want OCC to look good</li> <li>• Maintain an open door policy for staff</li> <li>• Keep employees motivated</li> <li>• Reward employees</li> </ul>	<ul style="list-style-type: none"> <li>• I</li> <li>• I</li> <li>• 2</li> <li>• I</li> </ul>

*Best Practices Matrix (Continued)*

	National Credit Union Administration (NCUA)	Office of Comptroller of the Currency (OCC)	
Agency Advice	<ul style="list-style-type: none"> <li>• A decentralized FOIA processing operation works well</li> <li>• Try to avoid “over-redacting” documents</li> <li>• Encourage cooperation among entities involved in the process</li> <li>• Sponsor periodic inter-agency conferences for individuals involved in the FOIA process to discuss FOIA and E-FOIA issues</li> </ul>	<ul style="list-style-type: none"> <li>• Teamwork is needed</li> <li>• Good Database-Lotus Approach</li> <li>• It’s critical to keep in touch with the requester</li> <li>• Directive or letter to all employees from top management that states the importance of FOIA</li> <li>• Training in all divisions/offices (all employees) regarding the FOIA process</li> <li>• Explain FOIA during new employee orientation</li> <li>• Policies and procedures manual to outline FOIA responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>• F</li> <li>N</li> </ul>