



**Federal Financial Institutions Examination Council (FFIEC)  
Chief FOIA Officer Report**

**March 2014**

*FFIEC Chief FOIA Officer: Judith E. Dupre, Executive Secretary*

**I. Steps Taken to Apply the Presumption of Openness**

*FOIA Training:*

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

**Answer:** No, the FFIEC did not hold an agency FOIA conference. The President's FOIA Memorandum and the Attorney General's FOIA Guidelines have been posted on the FFIEC Website and shared with the FOIA Public Liaison for the FFIEC. The FFIEC is staffed by 14 people total: 12 in our Examiner Education Office, 2 on bank reporting assignments, a Senior Program Coordinator, and the Executive Secretary. Given our lean staff size the Senior Program Coordinator, has among many other responsibilities, the title of FOIA Public Liaison and is responsible for FOIA intake, responses, and report writing to fulfill all Department of Justice requirements under FOIA for the FFIEC. As reported in the FFIEC Annual FOIA Report this is the equivalent of 0.04 of a staff person for FOIA responsibilities. Over the past four years the FFIEC FOIA inquiries average a total of just fewer than 19 per fiscal year, and prior to 2009 the number was zero. As the FFIEC is a very small Council established by statute to serve other federal agencies, not the public directly, and given the extremely minimal FOIA requests the FFIEC receives annually, it would be a gross misuse of time and expenses to conduct a FOIA conference or other training.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

**Answer: Not applicable.**

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

**Answer:** Yes, the FFIEC FOIA Public Liaison attends FOIA training events hosted by the DOJ. In FY 2013 the FFIEC FOIA Public Liaison attended DOJ Office of Information Policy's refresher training on Annual and Chief FOIA Officers reports held October 15, 2012. On October 24, 2013 the FFIEC FOIA Public Liaison attended the refresher training for the latest reporting period as well.

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

**Answer:** As reported in the FFIEC Annual FOIA Report the number of FOIA professionals at the FFIEC is the equivalent of 0.04 of a staff person. The FFIEC FOIA Public Liaison accounts for the majority of this equivalency and attends as many FOIA trainings offered by the DOJ OIP as possible each year.

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

**Answer:** As reported in the FFIEC Annual FOIA Report the number of FOIA professionals at the FFIEC is the equivalent of 0.04 of a staff person. Thus it is not feasible to expect the FFIEC to conduct FOIA training for 0.04 of a staff person. However, the FFIEC FOIA public liaison does attend at least one DOJ OIP FOIA training annually to stay current with FOIA requirements and FOIA reporting requirements.

*Outreach:*

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

**Answer:** As reported in the FFIEC Annual FOIA Report the number of FOIA professionals at the FFIEC is the equivalent of 0.04 of a staff person and the average number of annual FOIA requests is under 19. Therefore it is not feasible to expect the FFIEC to conduct FOIA outreach.

*Discretionary Disclosures:*

7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.

**Answer:** Opportunities for a discretionary release of otherwise exempt information did not occur in the 2013 reporting year. Therefore, it is not feasible to establish a formal process

for an occurrence that does not happen at the FFIEC. However, the FFIEC would consider discretionary releases before applying an exemption.

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

**Answer:** No, the FFIEC only used one exemption, Exemption 6, last fiscal year and that exemption does not permit agencies to make discretionary releases. ~~Opportunities for a discretionary release of otherwise exempt information did not occur in the 2013 reporting year.~~

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

**Answer:** Not applicable.

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

**Answer:** Not applicable.

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

**Answer:** Opportunities for a discretionary release of otherwise exempt information did not occur in the 2013 reporting year.

*Other Initiatives:*

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

**Answer:** Yes.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

**Answer:** The FFIEC began posting agency FOIA Logs on their website in 2013 and will maintain a record of seven years of logs. Currently the logs go back to 2009 (as there were no FOIA requests in 2007 and 2008). The logs can be viewed at this URL: <http://www.ffiec.gov/foia.htm>.

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

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

*Personnel:*

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

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

**Answer:** Not applicable for our 0.04 equivalency, as the FFIEC employs no full time FOIA professionals given the extremely small amount of FOIA requests made to our agency.

2. If not, what proportion of personnel has been converted to the new job series?

**Answer:** Not applicable for our 0.04 equivalency, as the FFIEC employs no full time FOIA professionals given the extremely small amount of FOIA requests made to our agency.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

**Answer:** Not applicable for our 0.04 equivalency, as the FFIEC employs no full time FOIA professionals given the extremely small amount of FOIA requests made to our agency.

*Processing Procedures:*

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

**Answer:** Not applicable as there were no requests made in FY 2013 for expedited processing.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

**Answer:** Not applicable as the FFIEC receives no consultations.

*Requester Services:*

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

**Answer: Yes.**

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

**Answer:** Not applicable as there were no appeals made in FY 2013.

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

**Answer:** The Chief FOIA Officer and FOIA Public Liaison manage the research and response for simple requests for data or information that is stored within the FFIEC's offices or website. As these requests are rare, they become a high priority as soon as they are received and the appropriate steps are taken for response. Legal FOIA counsel is consulted so that a response is made no later than by the date due according to the FFIEC FOIA regulation. In 2010 the FFIEC added a FOIA webpage and a FOIA email address that opens the opportunity for the public to now email their FOIA requests directly to the FFIEC's Chief FOIA Officer and FOIA Public Liaison with the click of a button. Given the limited number of FOIA requests received at the FFIEC yearly, i.e. zero in FY08, two in FY09, 24 in FY10, 24 in FY11, 22 in FY12 and 22 in FY13 the FFIEC began using a commercially available spreadsheet and manually tracks the limited FOIA requests received in that manner.

### **III. Steps Taken to Increase Proactive Disclosures**

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

*Posting Material:*

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

**Answer: Yes.**

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

**Answer:** The FFIEC FOIA Public Liaison works closely with the FOIA professionals at each of the five federal member agencies to ensure FFIEC FOIA requests for data are timely fulfilled and monitors the type of requests made so that if multiple requests are made for the same data, a recommendation would be made to the member agency to post this data on either their website or the FFIEC Website in the spirit of openness. The FFIEC continually reviews its website to ensure that it presents the most up-to-date information, reports, data, press releases, guidance, contact information for helpdesk support, examiner education training schedules, handbooks, frequently asked questions page, and links to other pertinent websites, to name a few.

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

**Answer:** The FFIEC began posting agency FOIA Logs on their website in 2013 and will maintain a record of seven years of logs. Currently the logs go back to 2009 (as there were no FOIA requests in 2007 and 2008). The logs can be viewed at this URL: <http://www.ffiec.gov/foia.htm>

The FFIEC offers two online InfoBases containing guidance documents and useful resources for the financial industry. Additionally supplements to interagency guidance documents, FFIEC Annual Report to Congress, press releases, updated member information due to legislative changes, updated staff contact details, FOIA 2013 Annual Report, zip files for FFIEC Quarterly FOIA reporting, updated financial data is posted quarterly (sometimes weekly depending on the data source), and updates on frequently asked questions on "hot topics." The FFIEC Website is maintained as a transparent view into all the work products of the FFIEC. Typically requests made under FOIA for information not available on our website are not available because the reports/documents/information requested is owned by one of our member agencies.

*Making Posted Material More Useful:*

4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

**Answer: Yes.**

5. If so, provide examples of such improvements.

**Answer:** The FFIEC has "alert" sign-up features on several of the web pages where the public has expressed the most interest in staying informed of when new material is posted. This includes the Press Release webpage, and several InfoBases maintained by the FFIEC. Also, an RSS feed feature was added for the Information Technology Handbook InfoBase. The sitemap for the FFIEC Website is routinely reviewed to ensure that the public can easily and intuitively access the information they are searching for with relative ease.

The FFIEC has a number of helpdesks available to the public to answer questions on the variety of data and reports that the FFIEC distributes and maintains, with one or more of its five federal member agencies. As listed on the FFIEC Website, the public can access subject matter experts for questions on posted data. The FFIEC Website also maintains databases on bank and financial supervisory information for the public to directly access. The FFIEC continually reviews the website to keep relevant content updated.

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

**Answer:** The FFIEC has "alert" sign-up features on several of the web pages where the public has expressed the most interest in staying informed of when new material is

posted. This includes the Press Release webpage, and several InfoBases maintained by the FFIEC. Also, an RSS feed feature was added for the Information Technology Handbook InfoBase.

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

**Answer: No.**

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

**Answer:** The FFIEC is in the beginning phase of a multi-year initiative for updating the website to increase a positive user experience in locating the information or contacts they seek. The search feature on the website will be updated shortly as part of this enhancement.

#### **IV. Steps Taken To Greater Utilize Technology**

*Online tracking of FOIA requests:*

1. Can a FOIA requester track the status of his/her request electronically?

**Answer: No.**

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

**Answer:** Not applicable.

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

**Answer:** Not applicable.

4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

**Answer:** Not applicable.

5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

**Answer: No.** The FFIEC receives a limited number of FOIA requests annually; averaging less than 19 a year, and responds to the requests timely with no backlog, therefore there is no justifiable reason to incur this business expense.

*Use of technology to facilitate processing of requests:*

6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

**Answer:** Given the limited number of FOIA requests received annually, it is not feasible or necessary to expand our technology at this time.

7. If so, describe the technological improvements being made.

**Answer:** Not applicable.

8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

**Answer:** Given the limited number of FOIA requests received annually, and that the current FFIEC administration of FOIA is very efficient, it is not feasible or necessary to expand our technology at this time.

## V. Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

### *Simple Track Requests:*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

**Answer:** No, not applicable.

b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

**Answer:** Not applicable.

c. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

**Answer:** Yes.

### *Backlogs and "Ten Oldest" Requests, Appeals and Consultations:*

2. Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You



should refer to these numbers from your Annual FOIA Reports for both Fiscal Years 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

**Answer: Not applicable.**

b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

**Answer: Not applicable.**

Ten Oldest Requests

c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

**Answer: Not applicable. The FFIEC does not have any backlogs.**

d. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2012 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that. For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed two of them, you should note that you closed two out of seven "oldest" requests.

**Answer: Not applicable. The FFIEC does not have any backlogs.**

Ten Oldest Appeals

e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

**Answer: Not applicable. The FFIEC does not have any administrative appeals.**

f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

**Answer: Not applicable. The FFIEC does not have any administrative appeals.**

Ten Oldest Consultations

g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

**Answer: Not applicable.**

h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

**Answer: Not applicable.**

*Reasons for Any Backlogs:*

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:

Request and/or Appeal Backlog

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

**Answer: Not applicable.**

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

**Answer: Not applicable.**

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

**Answer: Not applicable.**

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

**Answer: Not applicable.**

"Ten oldest" Not Closed

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

**Answer: Not applicable.**

f. If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

**Answer: Not applicable. The FFIEC does not have any backlogs.**

*Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:*

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2014.

**Answer: Not applicable. The FFIEC does not have any backlogs.**

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency's plan for achieving backlog reduction in the year ahead.

**Answer: Not applicable. The FFIEC does not have any backlogs.**

*Interim Responses:*

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

**Answer:** If this situation were to come up the FFIEC would release data as it became available to assist the requestor in getting the information they seek. However this situation has not come up in the past five years of FOIA processing at the FFIEC.

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

**Answer: Not applicable. The FFIEC does not have any backlogs.**

### **Use of FOIA's Law Enforcement "Exclusions"**

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

**Answer: No.**

2. If so, what was the total number of times exclusions were invoked?

**Answer: Not applicable.**

### ***Spotlight on Success:***

Given the extremely low volume of the FOIA request made to the FFIEC annually, there are not opportunities for great success stories. We simply reiterate last year's response on our continued success in responding to the public in a timely manner. Despite the small staff size, and no full time FOIA staff, (FOIA staff equivalent is 0.04) the FFIEC responds to consumer and public inquires in a timely and transparent manner with the goal of ensuring that inquirers are satisfied with the information shared or the contact information for where they can have their inquiries best addressed are shared. Occasionally a FOIA requestor will thank us for our timely response in satisfying their request. This is our measure of success.