

BUREAU OF CONSUMER FINANCIAL PROTECTION | FEBRUARY 2019

Chief FOIA Officer Report

Message from Kate Fulton

Acting Chief Operating Officer

The Bureau of Consumer Financial Protection (Bureau) was established on July 21, 2010 under Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act Public Law No. 111-203 (Dodd-Frank Act). Our mission is to regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws and to educate and empower consumers to make better informed financial decisions.

Pursuant to the Attorney General's 2009 FOIA Guidelines and as the Bureau's Chief FOIA Officer, I am submitting our sixth annual report which highlights our accomplishments over the past year. In submitting this report, I recognize the commitment required to successfully implement a high level FOIA program while balancing a 48% increase in new incoming requests and staff attrition. As we continue our ongoing self-assessment, I am encouraged by the FOIA team's willingness to reassess processes that ensures the program remains efficient and effective; participate in open communication with requesters; and promote FOIA compliance across the Bureau through consistent engagement with internal stakeholders.

The work of the FOIA team is grounded in a commitment to facilitate the Bureau's mission, further transparency, and improve FOIA in the federal government.

Inquiries about this report may be directed to the Bureau's FOIA Office at (855) 444-FOIA (3642) or FOIA@consumerfinance.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kate Fulton".

Kate Fulton

Contents

Message from Kate Fulton	1
Contents.....	2
I. Steps Taken to Apply the Presumption of Openness	4
A. FOIA Leadership	4
B. FOIA Training.....	4
C. Outreach	5
D. Other Initiatives.....	5
II. Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests	7
III. Steps Taken to Increase Proactive Disclosures	9
IV. Steps Taken to Greater Utilize Technology.....	11
V. Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs	13
A. Simple Track	13
B. Backlogs	14
BACKLOGGED REQUESTS	14
BACKLOGGED APPEALS	15
C. Backlog Reduction Plans	15
D. Status of Oldest Requests, Appeals, and Consultations	16
OLDEST REQUESTS	16
TEN OLDEST APPEALS.....	16
TEN OLDEST CONSULTATIONS.....	17

E.	Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans	17
F.	Success Stories.....	18

I. Steps Taken to Apply the Presumption of Openness

A key mission of the Bureau is to make the financial products and services that consumers use more transparent. Transparency is at the core of our agenda and an essential part of how the Bureau operates. The public deserves to know what the Bureau is doing and how we are doing it. Therefore, our commitment to openness starts with creating a high level of awareness of FOIA among employees as well as focusing on effective communication with the public.

A. FOIA Leadership

1. *The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?*

Yes.

2. *Please provide the name and title of your agency's Chief FOIA Officer.*

Kate Fulton, Acting Chief Operating Officer

B. FOIA Training

3. *Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any substantive FOIA training or conference during the reporting period such as that provided by the Department of Justice?*

Yes

4. *If yes, please provide a brief description of the type of training attended or conducted and the topics covered.*

Bureau FOIA professionals attended several different Department of Justice trainings including: Introduction to FOIA; Dispute Resolution Skills Training for FOIA Professionals; exemption training presented to the Federal Reserve Board FOIA Office; and a personalized FOIA overview presented to all Bureau employees.

Bureau FOIA professionals also attended the American Society of Access Professionals 10th Annual National Training Conference; the AINS FOIAxpress

Users Group Conference to review FOIA amendments, exemptions, and new case law; the Office of Government Information Services' Dispute Resolution Skills for FOIA Professionals; the Graduate School USA's Freedom of Information and Privacy Act course to learn how to respond to requests and become skilled at proper release of records to the public and FOIA; and the Bureau Section 508 Program Manager presented a tailored course to the FOIA team addressing accessibility requirements for electronic productions.

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

100%

6. OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

C. Outreach

7. *Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.*

Yes. The Bureau FOIA Manager participated in the Chief FOIA Officers Council and FOIA Advisory Committee meetings which are both video livestreamed to the public. We used the feedback from the requester community to improve customer service. We promptly reach out to requesters to resolve any questions about requests before searches are conducted, and encourage requesters to contact our office if they have questions.

D. Other Initiatives

8. *Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA.*

The Bureau FOIA Office sends agency-wide communications to employees on FOIA events and to promote the Bureau’s virtual, self-paced FOIA training.

The office regularly provides a FOIA briefing at each New Employee Orientation and offers training to Bureau program offices and their FOIA liaisons. Also, the FOIA office is available upon request to conduct tailored FOIA training based on needs identified in partnership with program managers.

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

The Bureau FOIA Office has virtual training available to Bureau employees in the Treasury Learning Management System, and we send quarterly reminders to encourage employees to take the training. Also, the office hosts a weekly meeting with representatives from all Bureau divisions to facilitate the processing of requests.

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

The Bureau fosters collaboration and encourages feedback related to its FOIA operations. The FOIA Office routinely partners with colleagues from all divisions throughout the agency to continually evaluate the efficiency and effectiveness of the FOIA program. This approach enables the FOIA Office to continually improve and streamline the FOIA process.

1. *For Fiscal Year 2018, what was the average number of days your agency reported for adjudicating requests for expedited processing? (Section VIII.A. of your agency's Fiscal Year 2018 Annual FOIA Report.)*

The average number of days to adjudicate requests for expedited processing was 4.75 business days.

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

N/A

3. *During the reporting period, did your agency conduct a self-assessment of its FOIA program?*

The Bureau initiated an ongoing self-assessment using OIP's guidance. The methods being used include, direct observation and review of FOIA case files, analysis of Annual Report Data and appeal demands, as well as updating templates and processing procedures.

4. *The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).*

During Fiscal Year 2018, the Bureau FOIA Public Liaison responded to approximately 200 inquiries.

5. *Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.*

As described above, the Bureau FOIA Office routinely collaborates with other offices throughout the agency to continually evaluate the efficiency and effectiveness of the FOIA program. Also, the FOIA Office has a weekly team meeting to collaborate on the processing of requests to avoid redundancy and foster consistency and efficiency of responses. To improve the search process, the Bureau initiates and tracks searches through a centralized tool which all analysts can access. Moreover, we produce a weekly report which identifies past due search requests and is circulated to senior leaders.

III. Steps Taken to Increase Proactive Disclosures

The Bureau strives to lead by example by being transparent with respect to its own activities. It utilizes its website as the primary vehicle to share information on the operations and work of the agency. These initiatives include posting leadership calendars; budget updates; general reports; guidance updates; FOIA request logs; and much more.

- 1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.*

[Consumer Complaint Database](#). The Bureau publishes complaints where the consumer has consented to publication about mortgages, bank accounts and services, credit cards, debt collection, credit reporting, and more.

[Leadership Calendars](#). The Bureau remains committed to keeping the public informed about the daily work of the Bureau's senior leadership by sharing their calendars. The calendars of past leaders, including: Richard Cordray, Elizabeth Warren, Raj Date, Steven Antonakes, and Mick Mulvaney are archived on the website for the public to view as well.

[General Reports](#). The Bureau continued to publish a variety of reports that shed light on the financial landscape and keep the American public informed and engaged in the work of the Bureau. Examples include annual, semi-annual, and other types of reports.

[FOIA Logs](#). The Bureau continued to publish FOIA logs to its electronic reading room to assist the public with making requests and disclose the various types of requests which have been submitted.

- 2. Please describe how your agency identifies records that have been requested and released three or more times (and are therefore required to be proactively disclosed pursuant to 5 U.S.C. § 552(a)(2)(D)).*

The Bureau FOIA office tasks FOIA analysts to identify records that meet the threshold for proactive disclosure. Analysts are trained to link similar requests in the electronic tracking system resulting in streamlined identification of frequently requested records. Staff is expected to regularly report on trends in weekly staff meetings and obtain approval to post records in the reading room.

- 3. 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?*

Yes.

4. If yes, please provide examples of such improvements.

The Bureau attempts to post frequently requested records to our website as soon as they are identified to ensure that they are most useful. The Bureau continues to ensure that all records in the electronic reading room contain FOIA metadata. Specifically, the FOIA Office ensures that before records are released that there is a uniform FOIA tag which includes reference to the Bureau, and a title, date, and description of the documents at issue. Also, the Bureau continues to add hyperlinks to the agency FOIA logs in the electronic reading room so that these frequently requested records can be viewed without having to search.

5. Please describe the best practices used to improve proactive disclosures and any challenges your agency faces in this area.

The Bureau internally distributes Daily News Clips that contain news articles and mission related content that has or is likely to impact the agency, and we routinely engage stakeholders to help us identify topics that are likely to gain wide-spread attention. At weekly bureau-wide meetings, we increase engagement and better educate our stakeholders on the objectives which include proactive disclosure.

IV. Steps Taken to Greater Utilize Technology

The Bureau is committed to transparency and believes that technology and innovation are fundamental to achieving mission of protecting consumers. The Bureau has employed technology in the overall management of the FOIA process, conducting searches for responsive records, and reviewing responsive records for release in an electronic format.

- 1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.*

Yes. The Bureau has a dedicated e-discovery team that generally conducts searches of email and other electronically stored records. The e-discovery team uses Veritas (formerly Clearwell). This software is the primary tool for internal data collection of electronically stored information in the Bureau.

- 2. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?*

Yes.

- 3. Did your agency successfully post all four quarterly reports for Fiscal Year 2018?*

Yes. <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/BCFP-foia-quarterly-reports/>

- 4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019.*

N/A

- 5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2017 Annual FOIA Report and, if available, for your agency's Fiscal Year 2018 Annual FOIA Report.*

2017: <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/BCFP-annual-foia-report-fy2017/>

2018: <https://www.consumerfinance.gov/foia-requests/foia-electronic-reading-room/cfpb-annual-foia-report-fy2018/>

6. *Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.*

The Bureau is acquiring an advanced document review upgrade to our current FOIA processing application to more efficiently review documents. Also, we are moving to vendor-serviced troubleshooting to ensure expert level support for our processing system. The Bureau sends and receives search requests and responses electronically. Also, we have established a designated neutral space where record custodians can easily place large volumes of material without an increased burden to our internal stakeholders.

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

A. Simple Track

The Bureau understands the importance of responding to requests within the timelines outlined in the FOIA statute. Additionally, the Bureau focuses on responding to appeals within the same amount of time (20 working days) as a request to provide requesters with a determination in a timely manner. The FOIA Office continues to look for ways to further streamline the process, effectively communicate with requesters, and leverage the most innovative techniques to provide a timely response to the public. The Bureau saw an unprecedented 48% increase in cases and leveraged internal detailed employees to overcome challenges presented by turnover and increased work load.

1. *Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.*

Yes, the Bureau uses a separate track for simple requests.

2. *If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2018?*

No. The average number of days for the Bureau to process simple requests was 17.9 business days.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2018 that were placed in your simple track.*

The percentage of requests the Bureau processed in the simple track was 94.39.

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

N/A

B. Backlogs

BACKLOGGED REQUESTS

5. *If your agency had a backlog of requests at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?*

No. The Bureau had a backlog of 3 requests in Fiscal Year 2017, and 114 requests for Fiscal Year 2018.

6. *If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?*

Yes. The Bureau processed 555 requests in Fiscal Year 2017, and 642 requests for Fiscal Year 2018.

7. *If your agency's request backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

- *An increase in the number of incoming requests.*
- *Staff attrition.*
- *An increase in the complexity of the requests received.*

The Bureau experienced wide-spread media coverage that contributed to both an increase in volume and complexity. We also experienced staff attrition. Moreover, the increase in complexity and volume has resulted in a corresponding need to reassess process and procedures.

The type of complex cases vary from mission related inquiries about our consumer complaint database to leadership changes.

The Bureau FOIA Office lost two full-time employees during the covered period, and it saw an almost 50% increase in the number of requests.

8. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your*

agency in Fiscal Year 2018. If your agency has no request backlog, please answer with "N/A."

The Bureau had a backlog of 114 requests in Fiscal Year 2017. This is 14% of the FOIA requests received.

BACKLOGGED APPEALS

9. *If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?*

The Bureau did not have a backlog of appeals at the end of Fiscal Years 2017 or 2018.

10. *If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2017?*

N/A

11. *If your agency's appeal backlog increased during Fiscal Year 2018, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:*

N/A

12. *If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2018. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."*

N/A

C. Backlog Reduction Plans

13. *In the 2018 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2017 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2018?*

N/A

14. *If your agency had a backlog of more than 1,000 requests in Fiscal Year*

2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?

N/A

D. Status of Oldest Requests, Appeals, and Consultations

OLDEST REQUESTS

15. In Fiscal Year 2018, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

Yes.

16. 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 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

N/A

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

None.

18. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

The Bureau used detailed employees to conduct FOIA intake, so that the FOIA analysts could work to process the requests.

TEN OLDEST APPEALS

19. In Fiscal Year 2018, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

N/A.

- 20. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.*

N/A

- 21. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.*

The Bureau FOIA Office works to assign appeals to the Legal Division on the day they are received with a complete administrative record to enable timely processing.

TEN OLDEST CONSULTATIONS

- 22. In Fiscal Year 2018, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?*

No consultations were reported pending in Fiscal Year 2018

- 23. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.*

N/A

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

- 24. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.*

The Bureau closed all of our 10 oldest requests during Fiscal Year 2018. We reported fewer than ten total appeals and no consultations to close the Fiscal Year.

- 25. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date*

when you last contacted the agency where the consultation was pending.

N/A

26. *If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2018.*

N/A

F. Success Stories

Out of all the activities undertaken by your agency since March 2018 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency’s efforts. The success story can come from any one of the five key areas. As noted above, OIP will highlight these agency success stories during Sunshine Week. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

In Fiscal Year 2018, the Bureau navigated a continued upward trend as our program has matured. We received a 48% increase in the number of requests received compared to Fiscal Year 2017, after experiencing a loss of two full-time employees. The FOIA Office relied on existing Bureau employees that accepted details to the FOIA Office to mitigate the disruption to our external and internal stakeholders and managed to process 15% more FOIA requests. The nature of our requests have evolved, becoming more complex. Our staff answered the call by identifying training to properly equip staff with the expertise needed.