U.S. Department of Housing and Urban Development
2024 Chief FOIA Officer Report

SECTION I: FOIA LEADERSHIP AND APPLYING THE PRESUMPTION OF OPENNESS

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness. The Guidelines also highlight the importance of agency leadership in ensuring effective FOIA administration. Please answer the following questions about FOIA leadership at your agency and describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

A. Leadership Support for FOIA

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency's Chief FOIA Officer at this level?

Yes.

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

Kevin L. McNeely – General Deputy Assistant Secretary for Administration

3. What steps has your agency taken to incorporate FOIA into its core mission? For example, has your agency incorporated FOIA milestones into its strategic plan?

FOIA actions and milestones have been identified and incorporated in the HUD Annual Performance Plan to help improve the FOIA program.

B. Presumption of Openness

4. The Attorney General's 2022 FOIA Guidelines provides that "agencies should confirm in response letters to FOIA requesters that they have considered the foreseeable harm standard when reviewing records and applying FOIA exemptions." Does your agency provide such confirmation in its response letters?

Yes.

5. In some circumstances, agencies may respond to a requester that it can neither confirm nor deny the existence of requested records if acknowledging the existence of records would harm an interested protected by a FOIA exemption. This is commonly referred to as a Glomar response. If your agency tracks Glomar responses, please provide:

a. **the number of times your agency issued a full or partial Glomar response (separate full and partial if possible);**

HUD's Office of Inspector General (OIG) reported none. HUD overall does not track the use of Glomar responses.

b. **the number of times a Glomar response was issued by exemption (e.g., Exemption 7(C) – 20 times, Exemption 1 – 5 times).**

N/A.

6. If your agency does not track the use of Glomar responses, are you planning to track this information in the future?

No, HUD does not plan to track this information in the future, except for HUD's OIG, which does track its Glomar responses.

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

HUD has published a new Proactive Disclosure Policy (which can be found here: https://www.hud.gov/sites/dfiles/OCHCO/documents/FOIA_Proactive_Disclosure_Policy1400.1.pdf). In addition, HUD's FOIA Office is working closely with program offices to increase their awareness of the need to proactively disclose and ensure the information we make available to the public is easy to find. Here are some examples:

HUD provides links to a variety of frequently requested materials, ranging from basic information about HUD programs and operations to FOIA logs that can be found at the following link: https://www.hud.gov/program_offices/administration/foia/frequentrequestedmaterials

Many of HUD's program office staff continued to proactively post information to HUD's external website. That includes the following during this reporting cycle:

- 11 HUD funding opportunities from FY23.
  https://www.grants.gov/web/grants/search-grants.html?keywords=hud

- 40 FY23 HUD notices of funding opportunity.
  https://www.hud.gov/program_offices/cfo/gmomgmt/grantsinfo/fundingopps

- Federal Housing Administration multifamily loans Firm Commitments and Endorsements Historical Database (FY01-FY23).

https://www.hud.gov/program_offices/housing/mfh/mfdata/mfproduction

- Multifamily assistance and Section 8 contracts that have been updated in FY23.
https://www.hud.gov/program_offices/housing/mfh/exp/mfhdiscl

- OIG audit reports.
https://www.hudoig.gov/library/audits-evaluations

- Results of OIG investigations.
https://www.hudoig.gov/library/investigation-inquiry-reports

- OIG FOIA responses.
https://www.hudoig.gov/freedom-information-act-foia/foia-reading-room

- Other OIG publications.
https://www.hudoig.gov/alertsbriefs%26other

- OIG semiannual reports.
https://www.hudoig.gov/library/semiannual-reports

- OIG hearings and correspondence.
https://www.hudoig.gov/library/hearings-correspondence

- OIG top management challenges.
https://www.hudoig.gov/library/top-management-challenges

- OIG ongoing work.
https://www.hudoig.gov/library/ongoing-work

- HUD-assisted multifamily housing regional account executive portfolio assignments, for HUD's five multifamily regions:
https://www.hud.gov/states/shared/working/west/mf/ownmgmt/ae
https://www.hud.gov/states/shared/working/r4/multifamily/AE-Property-List
https://www.hud.gov/states/shared/working/southwest/mf/ae
https://www.hud.gov/states/shared/working/northeast/mf#mfproperties
https://www.hud.gov/states/shared/working/r5/multifamily

- A HUD resource locator consisting of an interactive nationwide map, in which users who input a street address can learn any of the following: contact information for HUD offices and public housing authorities; the addresses and contact information for HUD-assisted multifamily properties, Low Income Housing Tax Credit-subsidized properties, U.S. Department of Agriculture-assisted Rural Housing, public housing buildings, public housing developments, and homeless services.
https://resources.hud.gov/#layers-menu/toc

- HUD's Community Assessment Reporting Tool consisting of an interactive tool that aggregates HUD investments to the following levels: unit of general local government (UGLG), congressional district, metropolitan statistical area (MSA), county, and state. The tool allows the user to generate HUD funding reports that can be exported as PDFs or as Microsoft Excel spreadsheets. https://egis.hud.gov/cart/

- Datasets generated by HUD-sponsored data collection efforts, including the American Housing Survey, median family incomes and income limits, as well as microdata from research initiatives on topics such as housing discrimination, the HUD-insured multifamily housing stock, and the public housing population. https://www.huduser.gov/portal/datasets/update-schedule.html

- Public housing data dashboard that displays a variety of data points relevant to the Public Housing program at HUD including resident characteristics, unit occupancy trends, scores from the Public Housing Assessment program, Public Housing funding information, Public Housing eligibility information, and energy data that can be sorted and filtered by Region, State, Field Office, and Public Housing Authority. https://www.hud.gov/program_offices/public_indian_housing/programs/ph/PH_Dashboard

- Housing Choice voucher data dashboard that displays budget and leasing trends, reserve balances, program admissions and attrition, per-unit cost and leasing potential for the program nationally and allows the user to drill down to the state and Public Housing Authority level. https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/dashboard

- Physical inspection scores for HUD-related public housing. https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodpass/phscores

SECTION II: ENSURING FAIR AND EFFECTIVE FOIA ADMINISTRATION

The Attorney General's FOIA Guidelines provide that "[e]nsuring fair and effective FOIA administration requires . . . proper training, and a full understanding of FOIA obligations by the entire agency workforce." The Guidelines reinforce longstanding guidance to "work with FOIA requesters in a spirit of cooperation." The Attorney General also "urge[s] agency Chief FOIA Officers to undertake comprehensive review of all aspects of their agency's FOIA administration" as part of ensuring fair and effective FOIA administration.

A. FOIA Training

1. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

During the year, the Department provided FOIA training via Microsoft Teams to Headquarters FOIA specialists, Departmental FOIA liaisons, and Regional FOIA liaisons. In HUD's 10 regions, regional FOIA liaisons and/or regional counsel provided ongoing and new training, respectively, to their current and new employees who work on FOIA requests. Also during the year, DOJ announced training opportunities for various FOIA topics. The HUD FOIA Office sent those communications to all FOIA staff at all levels. The entire HUD FOIA community was encouraged to take this training.

For FY24, HUD's FOIA Office has received approval to add FOIA training to the HUD-wide mandatory training requirement.

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

Yes.

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

The FOIA Office conducted various FOIA training regarding the FOIA rules, regulations, and processes, including on requesting extensions, providing clarification, determining fees, setting search parameters, and using the FOIA management system. The Office of General Counsel conducted a training for the FOIA Office on processing and on applying exemptions. In addition, HUD staff attended the following trainings provided by the DOJ's Office of Information Policy (OIP):

- Introduction to the Freedom of Information Act
- Procedural Requirements and Fees Training
- Annual FOIA Report Refresher and Quarterly Report Training
- Chief FOIA Officers Report Refresher Training
- Advanced Freedom of Information Act Training
- Processing a Request from Start to Finish
- Litigation Workshop
- Administrative Appeals, FOIA Compliance, and Customer Service
- Exemption 1 and Exemption 7 Training
- Exemption 4 and Exemption 5 Training

- Continuing FOIA Education
- Privacy Considerations Training
- Achieving Transparency Through Proactive Disclosures

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

85%

5. 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.

6. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?

The FOIA Office hosts monthly meetings along with the Office of General Counsel (OGC) to the program area staff and Regional Office points of contact, through Microsoft Teams on subject matters such as fees, procedural requirements, functions of the FOIA management system, and searching for responsive records. In addition, the FOIA Office maintains previously recorded training that is available anytime for new FOIA points of contact (POCs) and refreshers for personnel involved in the FOIA process as needed.

In FY23, the executive for FOIA met individually each month with program office senior executives to keep them abreast of future plans, current activities, and any issues regarding FOIA. This meeting was also used to educate them on any changes to the FOIA or HUD rules and regulations.

OGC regularly provides briefings to its senior leadership and, departmentwide, to program office senior executives on FOIA, including on agency FOIA obligations, the perfecting of requests, and what constitutes an adequate search. OGC has also provided departmentwide guidance on various FOIA topics, including the FOIA exemptions. In FY23, OGC and the FOIA Office issued departmentwide guidance on Proactive Disclosures. The FOIA Office is

currently collaborating with OGC on governmentwide FOIA guidance to both FOIA professionals and non-FOIA professionals.

In line with HUD's customer service and outreach efforts and on an as-needed basis, the FOIA Office train Headquarters and Regional Office program area staff who are responsible for conducting searches for responsive records to get a better understanding of the FOIA rules, regulations, and processes. Throughout FY23, the FOIA Office provided one-on-one training regarding meeting deadlines, processing, requesting extensions, providing clarification, fees, and search parameters, and using the FOIA management system.

B. Outreach

7. As part of the standard request process, do your FOIA professionals proactively contact requesters concerning complex or voluminous requests in an effort to clarify or narrow the scope of the request so requesters can receive responses more quickly? Please describe any such outreach or dialogue and, if applicable, any specific examples.

Yes, specialists in HUD Headquarters and Regional Offices often engage in such outreach efforts. Specialists routinely reach out to requesters in an effort to clarify or narrow the scope of a request. This outreach may be done either verbally or in writing or a combination of the two. If a requester agrees to clarify or narrow the scope of the request, specialists will follow-up with a written confirmation of any change that is made.

One strategy that is employed that allows requesters to keep their complex or voluminous requests on the table, but which speeds up the sending of replies, is seeking clarification from requesters if they want to prioritize some parts of their request over others. In seeking this clarification, as may be necessary, specialists will sometimes explain to requesters what the obstacles will likely be that will delay a response by HUD. For example, some requesters are unaware of the submitter notice process HUD has to engage in for records where Exemption 4 may be applicable. If requesters are agreeable to prioritizing portions of their request, that will result in one or more interim reply letters being relatively quicker, and requesters who receive interim replies may end up not needing the rest of the request to be processed.

8. Outside of the standard request process or routine FOIA Liaison or FOIA Requester Service Center interactions, did your FOIA professionals engage in any outreach or dialogue, outside of the standard request process, with the requester community or open government groups regarding your administration of the FOIA? For example, did you proactively contact frequent requesters, host FOIA-related conference calls with open government groups, or provide FOIA training to members of the public? 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.

No, HUD FOIA professionals did not have engagement this year with the requester community or open government groups outside of the standard request process. The FOIA Office is currently looking for opportunities to engage with the public through HUD media that can be used to improve the public's understanding of the FOIA submission process along with identifying key personnel in the process.

9. 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 Fiscal Year 2023 (please provide a total number or an estimate of the number).

5

C. Other Initiatives

10. Has your agency evaluated the allocation of agency personnel resources needed to respond to current and anticipated FOIA demands? If so, please describe what changes your agency has or will implement.

Yes. In FY23, the FOIA Division Director continued to provide strategic and tactical guidance to the staff and improved HUD's efficiency, processes, and guidance to the department, resulting in continued reduction of HUD's backlog. In addition, HUD hired FOIA contract support to supplement HUD's federal staff. In support of efforts to continue to grow the staff, the FOIA Office has budgeted for additional staff in FY24.

11. How does your agency use data or processing metrics to ensure efficient management of your FOIA workload? For example, case management reports, staff processing statistics, etc. In addition, please specifically highlight any data analysis methods or technologies used.

A weekly report is generated by the FOIA management system to capture overdue and open cases. The FOIA Office utilizes the reporting metrics in the FOIA management system to analyze trends and identify ways to improve efficiency. That report is shared with all HUD leadership and program offices. In addition, a monthly departmentwide FOIA dashboard report is provided to FOIA leadership to engage with program offices' leadership to close out overdue and open cases.

12. Optional -- If there are any other initiatives undertaken by your agency to ensure fair and effective FOIA administration, please describe them here.

HUD continues its efforts to identify improvement areas to reduce the FOIA backlog and improve processing.

SECTION III: PROACTIVE DISCLOSURES

The Attorney General's FOIA Guidelines emphasize that "proactive disclosure of information is . . . fundamental to the faithful application of the FOIA." The Guidelines direct agencies to post "records online quickly and systematically in advance of any public request" and reiterate that agencies should post records "in the most useful, searchable, and open formats possible."

1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.

The FOIA Office has implemented policies and procedures that require all employees, program offices, and FOIA staff to proactively disclose records that are the subject to the FOIA's proactive disclosure requirements. Proactively disclosed records are posted to HUD's website in the FOIA Reading Room and the FOIA Library.

2. How long after identifying a record for proactive disclosure does it take your agency to post it?

The estimated average time to post such a record is 3 to 4 days.

3. Does your agency post logs of its FOIA requests?

Yes.

a. If so, what information is contained in the logs?

Requester Name, Received Date, Request Description, Request ID, Closed Date, Final Disposition

b. Are they posted in CSV format? If not, what format are they posted in?

No. They are posted as PDFs.

4. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

- 11 HUD funding opportunities from FY23.
  https://www.grants.gov/web/grants/search-grants.html?keywords=hud

- 40 FY23 HUD notices of funding opportunity.
  https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps

- Federal Housing Administration multifamily loans Firm Commitments and Endorsements Historical Database (FY01-FY23).
  https://www.hud.gov/program_offices/housing/mfh/mfdata/mfproduction

- Multifamily assistance and Section 8 contracts that have been updated into FY23.
  https://www.hud.gov/program_offices/housing/mfh/exp/mfhdiscl

- OIG audit reports.
  https://www.hudoig.gov/library/audits-evaluations

- Results of OIG investigations.
  https://www.hudoig.gov/library/investigation-inquiry-reports

- OIG FOIA responses.
  https://www.hudoig.gov/freedom-information-act-foia/foia-reading-room

- Other OIG publications.
  https://www.hudoig.gov/alertsbriefs%26other

- OIG semiannual reports.
  https://www.hudoig.gov/library/semiannual-reports

- OIG hearings and correspondence.
  https://www.hudoig.gov/library/hearings-correspondence

- OIG top management challenges.
  https://www.hudoig.gov/library/top-management-challenges

- OIG ongoing work.
  https://www.hudoig.gov/library/ongoing-work

- HUD-assisted multifamily housing regional account executive portfolio assignments, for HUD's five multifamily regions:
  https://www.hud.gov/states/shared/working/west/mf/ownmgmt/ae
  https://www.hud.gov/states/shared/working/r4/multifamily/AE-Property-List
  https://www.hud.gov/states/shared/working/southwest/mf/ae
  https://www.hud.gov/states/shared/working/northeast/mf#mfproperties
  https://www.hud.gov/states/shared/working/r5/multifamily

  A HUD resource locator consisting of an interactive nationwide map, in which users who input a street address can learn any of the following: contact information for HUD offices and public housing authorities; the addresses and

contact information for HUD-assisted multifamily properties, Low Income Housing Tax Credit-subsidized properties, U.S. Department of Agriculture-assisted Rural Housing, public housing buildings, public housing developments, and homeless services.
https://resources.hud.gov/#layers-menu/toc

HUD's Community Assessment Reporting Tool consisting of an interactive tool that aggregates HUD investments to the following levels: unit of general local government (UGLG), congressional district, metropolitan statistical area (MSA), county, and state. The tool allows the user to generate HUD funding reports that can be exported as PDFs or as Microsoft Excel spreadsheets.
https://egis.hud.gov/cart/

- Datasets generated by HUD-sponsored data collection efforts, including the American Housing Survey, median family incomes and income limits, as well as microdata from research initiatives on topics such as housing discrimination, the HUD-insured multifamily housing stock, and the public housing population.
  https://www.huduser.gov/portal/datasets/update-schedule.html

- Public housing data dashboard.
  https://www.hud.gov/program_offices/public_indian_housing/programs/ph/PH_Dashboard

- Housing Choice voucher data dashboard that displays budget and leasing trends, reserve balances, program admissions and attrition, per-unit cost and leasing potential for the program nationally and allows the user to drill down to the state and Public Housing Authority level.
  https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/dashboard

- Physical inspection scores for HUD-related public housing.
  https://www.hud.gov/program_offices/public_indian_housing/reac/products/prodpass/phscores

5. 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.

6. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

Information is already posted in a machine-readable format, since HUD routinely creates readable PDFs. The FOIA Office continues to work with the HUD web manager to create program and subject areas to categorize FOIA released records, to make it easier for the public to find related records.

7. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office, such as IT or data personnel? If so, describe this interaction.

Yes. The executive for FOIA meets regularly with program area management on how the proactive disclosure process can be improved and what is needed to be compliant with proactive disclosure policy and procedures. Meetings have also been held with OGC to ensure that guidance and training will be provided to program office leadership and staff. In addition, the FOIA Office worked with the HUD web manager to better organize links to the FOIA Reading Room and FOIA Library to include restructuring the data by programs and subject areas. The FOIA Office plans to continue working with the web manager on a regular basis to review the utilization of the website and make adjustments to improve the customer experience.

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

The FOIA Office and OGC have finalized and implemented the Proactive Disclosure policy as part of the required actions in the HUD Annual Performance Plan to require all employees, program offices, and FOIA staff to proactively disclose records and understand their role in the process. The FOIA Office is continuing to look at the staffing structure and considering adding more staff to primarily focus on improving the proactive disclosure process.

SECTION IV: STEPS TAKE TO GREATER UTILIZE TECHNOLOGY

A key component of FOIA administration is using technology to make information available to the public and to gain efficiency in FOIA processing. The Attorney General's FOIA Guidelines emphasize the importance of making FOIA websites easily navigable and complying with the FOIA.gov interoperability requirements. Please answer the following questions to describe how your agency is using technology to improve its FOIA administration and the public's access to information.

1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?

Yes.

2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.

N/A.

3. Does your agency currently use any technology to automate record processing? For example, does your agency use machine learning, predictive coding, technology assisted review or similar tools to conduct searches or make redactions? If so, please describe and, if possible, estimate how much time and financial resources are saved since implementing the technology.

No. However, the FOIA Office continues to use the FOIA management system for record processing to include review and redact; and eDiscovery to conduct email searches and collect records. In addition, the FOIA Office is exploring a new tool to improve the eDiscovery process.

4. 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?

HUD has conducted a review of its FOIA website this reporting period. As a part of the review, the FOIA Office worked with the web manager to better organize links in the FOIA Reading Room and FOIA Library. This effort includes restructuring the data by programs and subject areas. The FOIA Office plans to continue working with the web manager on a regular basis to review the utilization of the website and to make adjustments to improve the customer experience.

5. Did all four of your agency's quarterly reports for Fiscal Year 2023 appear on your agency's website and on FOIA.gov?

Yes.

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in FY 2024.

N/A.

7. 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 2022 Annual FOIA Report and, if available, for your agency's Fiscal Year 2023 Annual FOIA Report.

HUD's 2022 Annual FOIA Report, as well as the underlying raw statistical data, can be found at https://www.hud.gov/program_offices/administration/foia/foiarpts. The raw data report is found under "HUD's Raw Data Annual Report" as .XL**S** files and are broken down by year.

As of this writing, HUD's Fiscal Year 2023 Annual FOIA Report and raw data have not been posted. Once posted, the 2023 Annual FOIA Report and underlying raw data will be found at https://www.hud.gov/program_offices/administration/foia/foiarpts

8. In February 2019, DOJ and OMB issued joint Guidance establishing interoperability standards to receive requests from the National FOIA Portal on FOIA.gov. Are all components of your agency in compliance with the guidance?

Yes. HUD, including its Office of Inspector General, is now in compliance with the Guidance for interoperability.

9. Optional -- Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

As far as challenges, HUD has faced significant ones with its use of eDiscovery record collection. In FY23, the method of uploading and downloading personal storage table (PST) files into the FOIA management system remained a challenge for processing. The FOIA Office is continuing to explore a new tool to improve the eDiscovery process.

SECTION V: STEPS TAKEN TO REMOVE BARRIERS TO ACCESS, IMPROVE TIMELINESS IN RESPONDING TO REQUESTS, AND REDUCE BACKLOGS

The Attorney General's FOIA Guidelines instruct agencies "to remove barriers to requesting and accessing government records and to reduce FOIA processing backlogs." Please answer the following questions to describe how your agency is removing barriers to access, improving timeliness in responding to requests, and reducing FOIA backlogs.

A. Remove Barriers to Access

1. Has your agency established alternative means of access to first-party requested records, outside of the typical FOIA or Privacy Act process?

Yes.

2. If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.

As of FY23, the FOIA Office continues to utilize a dedicated email box for forwarding Privacy Act requests, to the Department's Privacy Division who can assist to locate the privacy system of record program area office for first-party requested records to obtain their records directly. The dedicated email box was established in FY21.

Outside the typical FOIA or Privacy Act process, requests for some types of Single Family/Federal Housing Administration (FHA) records – Partial Claim Payoffs and Subordinations – can be made through the SMART Integrated Portal (https://sip.hudnsc.org/).

3. Please describe any other steps your agency has taken to remove barriers to accessing government information.

One way in which HUD has sought to remove barriers to accessing government information is by improving its proactive disclosure process.

B. Timeliness

4. For Fiscal Year 2023, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A of your agency's Fiscal Year 2022 Annual FOIA Report.

38.92 days.

5. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2023 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

When a request for expedited processing is received, it is then analyzed to see if it meets the expedited processing criteria. A determination whether to grant expedited processing is then made and sent to the requester as part of the acknowledgment letter. The Department will continue to enhance communications and education to ensure that all requests for expedited processing are timely adjudicated.

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

Yes.

7. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2023?

No. HUD's overall average number of days to process simple requests was 36.48 days.

8. If not, did the simple track average processing time decrease compared to the previous Fiscal Year?

Yes. The average processing time decreased from 80.17 days in FY22 to 36.48 days in FY23. HUD continues to monitor this to identify improvements that would reduce processing time.

9. Please provide the percentage of requests processed by your agency in Fiscal Year 2023 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.

30% (580 simple requests/1,932 total requests)

10. 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.

C. Backlogs

BACKLOGGED REQUESTS

11. If your agency had a backlog of requests at the close of Fiscal Year 2023, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2022?

Yes. The backlog decreased by 11.5 percent (from 627 to 555).

12. If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2023 than it did during Fiscal Year 2022?

N/A.

13. If your agency's request backlog increased during Fiscal Year 2023, 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 appeals
* A loss of staff
* An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
* Litigation
* Any other reasons – please briefly describe or provide examples when possible

N/A.

14. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

29.07% (555 requests in backlog at end of FY23; 1,909 requests received in FY23).

BACKLOGGED APPEALS

15. If your agency had a backlog of appeals at the close of Fiscal Year 2023, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2023?

N/A.

16. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2023 than it did during Fiscal Year 2022?

No. HUD processed 58 appeals in FY23. It processed 64 appeals in FY22.

17. If your agency's appeal backlog increased during Fiscal Year 2023, 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 appeals
* A loss of staff
* An increase in the complexity of the requests received (if possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase)
* Litigation
* Any other reasons – please briefly describe or provide examples when possible

N/A.

18. 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 2023. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2023 and/or has no appeal backlog, please answer with "N/A."

N/A.

D. Backlog Reduction Plans

19. In the 2023 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2022 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 2023?

No, HUD did not implement a backlog reduction plan in FY23 because HUD did not have a backlog of over 1000 requests in FY22.

20. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2023, please explain your agency's plan to reduce this backlog during Fiscal Year 2024.

N/A.

E. Reducing the Age of Requests, Appeals, and Consultations

TEN OLDEST REQUESTS

21. In Fiscal Year 2023, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2022 Annual FOIA Report?

No.

22. 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 2022 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

HUD closed seven of the ten oldest requests reported at the end of FY22.

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

HUD-focused efforts to reduce the FOIA backlog this year resulted in an 11.5% percent reduction in the backlog, as well as a reduction in the overall age of HUD's pending requests. This continues to be a priority for HUD.

TEN OLDEST APPEALS

24. In Fiscal Year 2023, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2022 Annual FOIA Report?

Yes.

25. 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 VI.C.(5) of your Fiscal Year 2022 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A.

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

The FOIA Office continues to generate weekly reports that includes thorough information about FOIA appeals and litigation, to make FOIA staff and appropriate agency leadership aware of pending appeals.

TEN OLDEST CONSULTATIONS

27. In Fiscal Year 2023, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2022 Annual FOIA Report?

N/A (because there were no open consultations at the end of FY22).

28. 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 2022 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A.

ADDITIONAL INFORMATION REGARDING TEN OLDEST

29. 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 2024.

With regard to its 3 oldest pending requests, HUD intends to focus on finalizing them by the end of FY24.

F. **Additional Information about FOIA Processing**

30. Were any requests at your agency the subject of FOIA litigation during the reporting period? If so, please describe the impact on your agency's overall FOIA request processing and backlog. If possible, please indicate:

* **The number and nature of requests subject to litigation**
* **Common causes leading to litigation**
* **And any other information to illustrate the impact of litigation on your overall FOIA administration.**

Yes. There were 10 requests that were the subject of FOIA litigation during the reporting period, 4 of which were closed by the end of FY23. For litigation cases opened in FY23, the basis for the majority of cases was that HUD did not respond to the requester within the statutory timeline. There was one litigation case that was filed based on HUD's withholding under a FOIA exemption. The main reason for the delay in processing the underlying requests was the complexity of the requests that would become the subject of litigation, such as the need to search, collect, and review documents from various offices with a voluminous number of records. FOIA litigation increases the costs and administrative burdens of overall FOIA processing, which can contribute to the FOIA backlog.