



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL

JUN 21 2013

Allan Blutstein, Esq.
Senior Counsel
Cause of Action
1919 Pennsylvania Avenue
Suite 650
Washington, DC 20006

RE: Your Freedom of Information Act Request
FOIA Control No.: 13-IGF-OIG-00073

Dear Mr. Blutstein:

This is in response to your Freedom of Information Act (FOIA) request dated May 30, 2013, to the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General (OIG). You requested a copy of our agency's response to Senator Charles Grassley and Representative Darrell Issa on whether political appointees made aware of FOIA requests and whether political appointees play a major role in the decision-making process in those requests. Your request was received in this office on May 30, 2013.

Enclosed are 13 pages of material detailing the results of HUD-OIG's response. This response constitutes a full grant of your request.

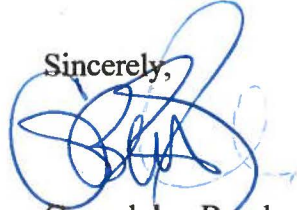
Please be advised that Eddie Saffarinia, Assistant Inspector General for Office of Management, is the official responsible for this response.

If you consider this response to be a denial of your request, you may submit an appeal pursuant to the Office of Inspector General's Freedom of Information Regulation, 24 CFR § 2002.25 (2010). This regulation provides for administrative review by the Inspector General of any denial of information if a written appeal is filed within 30 days from the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." Your appeal should be addressed to the Inspector General, 451 7th Street, SW, Suite 8260, Washington, DC 20410, and should be accompanied by a copy of your initial

request, a copy of this letter and your statement of circumstances, reasons and arguments supporting disclosure of the requested information

Should you have any questions concerning the FOIA request, please contact me on (202) 708-1613. Please reference the above FOIA number when making inquiries about this matter.

Sincerely,



Gwendolyn Beasley
Freedom of Information Act Specialist



U.S. Department of Housing and Urban Development
Office of Inspector General

451 7th St., S.W.
Washington, D.C. 20410

September 29, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510-6200

Dear Senator Grassley:

Thank you for your letter dated August 23, 2010, signed by you and Representative Darrell E. Issa, regarding your request that we conduct an inquiry into the agency's FOIA office to determine whether, and if so, the extent to which political appointees are made aware of information requests and have a role in request reviews or decision-making. Below is the information you requested:

Pursuant to your request, we performed an inspection to research and gather information on HUD's Freedom of Information Act (FOIA) process to address the following issues:

- I. Whether, and if so, the extent to which political appointees are made aware of information requests.
- II. Whether political appointees have a role in request reviews or decision-making.

We determined that political appointees are made aware of certain FOIA requests for informational purposes only. In particular they are made aware of politically sensitive FOIA requests, media related FOIA requests and FOIA requests by Congress. However, we determined that beyond the required notification, political appointees do not have a role in the request reviews or decision-making regarding the FOIA requests.

HUD Headquarters and the field offices generally follow the same FOIA process although the field offices operate independent of Headquarters. Each field office has a designated FOIA Liaison who is responsible for signing the responsive FOIA package. In some field offices, the field office manager or designee may sign the FOIA package.

The FOIA process in HUD Headquarters is as follows: The request comes in via fax, email or mail, and then is logged and scanned into the FOIA management system. It is then assigned to a FOIA specialist who reviews the request and assigns it to the appropriate program office in Headquarters to produce the requested documents. The program office gathers the requested

documents and sends them back to the FOIA specialist for review and signature. Any redactions of confidential information are done by the program office and reviewed by the FOIA specialist and the Office of General Counsel for review and concurrence. Once the FOIA package has been reviewed, it is signed by both the Director of the FOIA Branch and the Assistant Executive Director of the FOIA Branch and it is sent out to the requester.

The FOIA process in the HUD field office is as follows: The request comes in via fax, email or mail, and is logged and scanned into the FOIA management system. It is then reviewed by the FOIA Liaison to determine which program office holds the records requested and the request is then forwarded to that program office. The program office gathers the requested documents and sends them back to the FOIA Liaison for review and signature. Any redactions of confidential information are done by the program office and reviewed by the field office and the field office General Counsel for review and concurrence. Once the FOIA package has been reviewed and signed, it is sent out to the requester. This process may vary slightly based on field office jurisdiction. In some field offices, the final package is signed by the FOIA Liaisons and in others it is signed by the Deputy Regional Director or Field Office Manager.

In the HUD Office of the Inspector General (OIG), FOIA requests are handled within the Office of Legal Counsel. The OIG generally follows the same FOIA process as the HUD Headquarters and field offices. However, after the Office of Legal Counsel receives the responsive documents from the appropriate OIG field office, redactions are done in OIG Headquarters by the FOIA officers and approved by an attorney in the Office of Legal Counsel. Concurrence on the responsive package is received by an attorney in the Office of Legal Counsel as well as the corresponding Assistant Inspector General for either audit or investigations.

SCOPE AND METHODOLOGY

To address the questions asked we reviewed applicable HUD regulations, criteria and other guidance. We interviewed HUD officials in the Headquarters Office of Chief Human Capital Officer and selected field office staff within the Office of Field and Policy Management. We also interviewed staff in OIG's Office of Legal Counsel who are involved in the FOIA process.

OBSERVATIONS

I. Whether, and if so, the extent to which political appointees are made aware of information requests.

HUD Headquarters staff informed us that if they receive any politically sensitive FOIA requests, they notify, for informational purposes, the Office of the Secretary via the Office of Public Affairs and the Office of Congressional and Intergovernmental Relations. When they receive media related FOIA requests, they notify the Office of Public Affairs; and in cases of FOIA requests made by Congress, they notify the Office of Congressional and Intergovernmental Relations. According to the Headquarters staff, the notification for sensitive matters followed by Headquarters staff is not contained in any written policy; it's a matter of courtesy.

The HUD field offices are required to follow the guidance found in "Processing Sensitive FOIA Requests in the Field" and the attached memorandum (attachment A). This guidance is also found on the internet. In short, the guidance states that "Upon receipt of a sensitive FOIA, notify: your Regional Director, your Regional Field FOIA Liaison and the Headquarters FOIA Division in the Office of Litigation". Further, the guidance states that "If the sensitive FOIA is also a media request, also notify: your Regional Public Affairs Officer." The field office staff that we spoke with stated that they have notified Headquarters and the appropriate officials for information purposes when they received any politically sensitive requests.

OIG staff informed us that if they receive any politically sensitive, media or congressional FOIA requests they notify the Counsel to the Inspector General within the Office of Legal Counsel. They are not required to notify any political appointees.

II. Whether political appointees have a role in request reviews or decision-making.

Staff in HUD Headquarters and the field offices all stated that although they are required to notify political appointees of certain FOIA requests, the political appointees have a limited role in request reviews and no role in the decision-making regarding the documents to be released to the requester. The limited role entails receipt of notification throughout the process of any political, media or Congressional FOIA requests received. The FOIA office makes the final decision on what documents will be released. In a memorandum for all field FOIA liaisons from Richard A. Hauser, a former General Counsel at HUD, dated November 5, 2002, it states "The notification and clearance process is for information purposes only, since the disclosure or withholding of agency records is based upon the legal requirements of the Freedom of Information Act" (See attachment B). Based on our interviews, this policy has not changed.

Staff in HUD Headquarters and the field offices stated that political appointees have limited involvement in the FOIA process. A political appointee sits in the Office of General Counsel and would see any request that is sent to the Office of General Counsel for redaction concurrence. There is also a career employee in the Office of Public Affairs who would see any FOIA request sent to that office involving Congress or the media. However, these individuals do not have a role in the decision-making process.

Attachment A – Processing Sensitive FOIA Requests in the Field

Processing Sensitive FOIA Requests in the Field

Page 1 of 2



Processing Sensitive FOIA Requests in the Field

This guidance summarizes the procedures for the handling of sensitive FOIA requests received by the field offices. The parameters for determining whether a FOIA request is sensitive are found in the Deputy Secretary's November, 30 2004 memorandum ([available here](#)). As set forth in the memorandum, a FOIA request is considered sensitive if the subject matter involves one of the following:

- National significance, serious injury, or loss of life.
- Information that could subject HUD to substantial litigation.
- Current or former senior HUD management officials.
- Questions about HUD's policies or the performance of departmental responsibilities.

While it may be difficult in specific circumstances to assess when a request is of national significance, raises questions about HUD's policies, or satisfies some of the other articulated criteria for sensitivity detailed in the Deputy Secretary's memorandum, field FOIA liaisons should use their best judgment. Field personnel are often familiar with current local and historical issues, and are in the best position to assess the sensitivity of the release of documents maintained in the field offices. If uncertain about whether a request is sensitive, FOIA liaisons can consult with local program representatives or Office of Public Affairs personnel. As always, the FOIA Division in the Office of Litigation is available for consultation by telephone, and can assist liaisons in evaluating the sensitivity of particular requests.

Once a request has been identified as sensitive, both **notice** and **concurrence** requirements are triggered.

Upon receipt of a sensitive FOIA, NOTIFY:

- your Regional Director;
- your Regional Field FOIA Liaison; and
- the Headquarters FOIA Division in the Office of Litigation.

If the sensitive FOIA is also a media request, **also NOTIFY:**

- your Regional Public Affairs Officer.

Required notices should be faxed to ensure timely receipt, unless other arrangements are made with the receiving office. When faxing the sensitive FOIA request to the Headquarters FOIA office in the Office of Litigation at (202) 401-7901, you should include a completed Sensitive FOIA Form ([found here](#)), which provides Headquarters with an explanation as to why the request is sensitive (it may not be apparent from the face of the request) as well as all information necessary for senior management to evaluate the impact of disclosure.

After completing all required notification procedures, the FOIA Liaison should continue with the processing of the request in accordance with standard search and document review procedures. Field program offices should be providing the field FOIA Liaison with a recommendation as to releasability or redaction of the responsive documents, as appropriate. Upon receipt of the responsive documents and recommendation from the program office, the Field FOIA Liaison should prepare a proposed response letter to the requester.

Once the draft response letter has been prepared, you must obtain **concurrences** before sending out a sensitive FOIA response. You must obtain concurrences from the following offices before dispatching the FOIA response (whether it is a full grant, partial grant or full denial):

- the Headquarters FOIA Division of the Office of Litigation
- the Regional Director's office
- the head of the relevant program office in Headquarters

Processing Sensitive Foia Requests in the Field

Page 2 of 2

The documents and proposed response letter should be sent **express mail** to the relevant Regional Director (or his/her designee) for review and concurrence. The Field FOIA Liaison should also **email** the proposed response letter to the field program office, which in turn will forward it to the appropriate Headquarters program office for review and concurrence. The FOIA Division in Headquarters must also receive an **email** with the proposed response letter for review and concurrence.

Once all of the concurrences are received, the Field FOIA Liaison can send out the final response. In the event of a non-concurrence to the proposed response to the sensitive FOIA request, the Field FOIA Liaison must arrange a conference call with the FOIA Division in Headquarters and the office(s) not approving of the response in order to resolve the outstanding issues and arrive at a consensus as to the appropriate response to the sensitive FOIA request.

The process for handling sensitive FOIA requests is further described in more detail [here](#), and a useful chart outlining the necessary concurrences for field sensitive FOIA requests is located [here](#).

Please contact the FOIA Division if you have questions about field sensitive FOIA requests and procedures.

Content current as of April 7, 2008


Attachment B – November 5, 2002, Memorandum for All Field FOIA LiaisonsDEPARTMENT OF JUSTICE
OFFICE OF THE INSPECTOR GENERAL

NOV 5 2002

NOV 5 2002

MEMORANDUM FOR ALL FIELD FOIA LIAISONS

FROM


RICHARD A. HAUSER, GENERAL COUNSEL, C

SUBJECT

PROTOCOL FOR FIELD FOIA REQUESTS FROM THE MEDIA

This is to remind you of the protocol for processing Freedom of Information Act (FOIA) requests from members of the news media. When a FOIA request is received from a media requester, a copy of that request should be provided to your regional Public Affairs Officer. The Public Affairs Officer should also be included on the clearance sheet for substantive responses in which access to records is granted or denied. Additionally, the Public Affairs Officer should be provided with a copy of any response to a media requester after it is issued.

The notification and clearance process is for information purposes only, since the disclosure or withholding of agency records is based upon the legal requirements of the Freedom of Information Act. A similar protocol has been in place in Headquarters for more than two years and has provided effective communication between the FOIA Division and Public Affairs.

If you have any questions or need additional information, please contact Carole Wilson, Associate General Counsel for Litigation, or Marylea Byrd, Assistant General Counsel for FOIA.

cc: Diane Tomb
Regional Public Affairs Officers



U.S. DEPARTMENT OF
HOUSING AND URBAN DEVELOPMENT
OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20410-4500

September 29, 2010

The Honorable Darrell E. Issa
Ranking Minority Member
Committee on Oversight
and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, DC 20515-6142

Dear Representative Issa:

Thank you for your letter dated August 23, 2010, signed by you and Senator Charles E. Grassley, regarding your request that we conduct an inquiry into the agency's FOIA office to determine whether, and if so, the extent to which political appointees are made aware of information requests and have a role in request reviews or decision-making. Below is the information you requested:

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OBSERVATIONS

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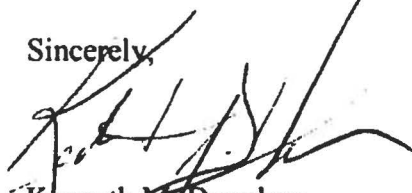
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OIG staff stated that none of the political appointees within the Office of Inspector General have any decision-making power regarding FOIA requests. All decisions regarding the FOIA requests are made in the Office of Legal Counsel.

I have provided essentially the same information to Senator Grassley in a separate letter. As always, we appreciate your interest in the integrity of HUD programs.

Sincerely,



Kenneth M. Donohue
Inspector General

Attachments

Attachment A – Processing Sensitive FOIA Requests in the Field

Processing Sensitive Foia Requests in the Field

Page 1 of 2



Processing Sensitive FOIA Requests in the Field

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<http://hudatwork.hud.gov/po/c/processing-sensitive-requests.cfm>

9/16/2010

Processing Sensitive Foia Requests in the Field

Page 2 of 2

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Content current as of April 7, 2008

Attachment B – November 5, 2002, Memorandum for All Field FOIA LiaisonsU.S. DEPARTMENT OF JUSTICE AND FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535

NOV 5 2002

NOV 5

MEMORANDUM FOR ALL FIELD FOIA LIAISONS

FROM: *Richard A. Hauser*
RICHARD A. HAUSER, GENERAL COUNSEL, C

SUBJECT: PROTOCOL FOR FIELD FOIA REQUESTS FROM THE MEDIA

This is to remind you of the protocol for processing Freedom of Information Act (FOIA) requests from members of the news media. When a FOIA request is received from a media requester, a copy of that request should be provided to your regional Public Affairs Officer. The Public Affairs Officer should also be included on the clearance sheet for substantive responses in which access to records is granted or denied. Additionally, the Public Affairs Officer should be provided with a copy of any response to a media requester after it is issued.

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If you have any questions or need additional information, please contact Carole Wilson, Associate General Counsel for Litigation, or Marylea Byrd, Assistant General Counsel for FOIA.

cc: Diane Tomb
Regional Public Affairs Officers