Testimony of Assistant Secretary for Management Brodi Fontenot
House Oversight and Government Reform Committee
Ensuring Transparency through the Freedom of Information Act

Wednesday, June 3, 2015

Chairman Chaffetz, Ranking Member Cummings, and distinguished members of the Committee, thank you for the opportunity to testify today on the Department of Treasury's role in fostering transparency through the Freedom of Information Act (FOIA).

As the Treasury Department's Chief FOIA Officer, I take seriously compliance with FOIA and promotion of transparency and openness in Treasury operations. Although the nine Treasury bureaus independently process FOIA requests directed to each bureau, my team is responsible for providing agency-wide guidance and training, as well as for monitoring Treasury FOIA performance, and proposing agency-wide policy and improvements.

Like many other agencies, Treasury faces challenges in the administration of FOIA. But Treasury remains steadfast in its commitment to improving its FOIA performance, and has made notable progress. Treasury-wide, the agency received an average of 15,657 requests annually between 2009 and 2014. In FY 2014, Treasury processed nearly 14,000 requests agency-wide. The scope and complexity of these requests and the resources required to respond vary greatly. As of April 30, approximately 930 requests remain pending, which is less than six percent of our average annual incoming requests.

When I joined Treasury six months ago, I was pleased to discover that the Treasury team had already begun implementing new measures to improve FOIA performance and efficiency in Departmental Offices and Treasury-wide. For example, at Departmental Offices, beginning in 2013, my team doubled the number of full time employees dedicated to FOIA. We used that additional capacity in two critical ways. First, we devoted focused attention to closing Treasury's oldest FOIA cases. In FY 2014, Treasury closed 13 of its 20 Oldest FOIA cases. So far in FY 2015, we have closed two out of our top twenty oldest, including *the* oldest FOIA request in the agency.

Second, we made significant changes to the procedures and staffing structure used to manage FOIA cases to improve efficiency and timelines. These procedures now require that a case manager be assigned as the point of contact for each request. As a result, requests are tracked more effectively. In addition, FOIA requesters can talk to the case manager assigned to their case to obtain information on the status of their case.

We have improved service to FOIA requesters and the general public through better use of technology as well. In 2013, we implemented a new online Treasury FOIA portal. Requesters can now submit requests for any Treasury bureau or Office online through Treasury.gov. We also continue to proactively post a wide variety of Treasury materials on our FOIA page on Treasury.gov.

In addition, my team, in its Treasury-wide policy and oversight capacity, is driving improved FOIA performance for Treasury's bureaus. My team monitors each bureau's key FOIA metrics, and I review FOIA performance data with bureau leadership regularly.

My team also engages directly with FOIA staff from each bureau. They hold monthly FOIA Council meetings—attended by staff of all nine Treasury bureaus—to discuss the latest guidance, best practices, and common challenges in FOIA implementation. They also promote and provide FOIA training for all bureau FOIA professionals. During the past year, 100 percent of the full-time FOIA professionals across Treasury received FOIA-specific training.

We have more work to do; but there are encouraging signs that Treasury is on the right track. For example, during FY 2014:

- The Treasury-wide FOIA backlog decreased by eight percent.
- Treasury received 14,107 requests and closed 13,991 requests – we are keeping pace with the volume of requests.
- We also processed more FOIA requests in less time. Treasury closed 73 percent of incoming requests within 20 days—that is a three percent increase over FY 2013.
- Five of the nine Treasury bureaus closed more requests than they received during the fiscal year.[1] Four Treasury bureaus ended the year with zero backlog.[2]
- We also released more information overall. Treasury released records in full or in part in response to 90 percent of cases in which responsive records were identified. Treasury was one of only nine federal agencies with such a high rate of released records.[3]

In sum, today Treasury is releasing more information, processing more requests in less time, and making tangible progress on reducing its pending FOIA inventory and closing its oldest cases, as compared to just 18 months ago. We believe we are headed in the right direction.

Applying FOIA properly remains a complex endeavor. It requires trained, experienced professionals who are expert in applying the law and knowledgeable about agency activities and records. Maintaining the right level of resources is especially challenging in light of the budget environment and the limited number of skilled FOIA professionals.

Nevertheless, Treasury has increased its investment in FOIA, even while its appropriations shrink. Treasury spent over 20 million dollars in FY 2014 on compliance with FOIA—a 28

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[1] Treasury Departmental Offices, the Bureau of the Fiscal Service, Treasury Inspector General for Tax Administration (TIGTA), the U.S. Mint, and the Alcohol and Tobacco Tax and Trade Bureau (TTB) all closed more requests than they received in FY 2014.

[2] Financial Crimes Enforcement Network, U.S. Mint, TTB and TIGTA all reported zero FOIA backlog at FY 2014 year end.

[3] According to the Department of Justice Annual FOIA Report Summary, "DOT, USDA, Department of Energy (DOE), DHS, Treasury, Department of the Interior (Interior), DOJ, DOD, and Department of Housing and Urban Development (HUD) -- released records in full or in part in response to 90% or more of the requests that they processed for exemption applicability."
http://www.justice.gov/sites/default/files/oip/pages/attachments/2015/05/01/fy_2014_annual_report_summary.pdf.

percent increase over the prior two years. Similarly, Treasury added 32 full-time equivalents to its agency-wide FOIA staff between 2012 and 2014—an increase of 21 percent. The current fiscal environment makes the availability of additional resources uncertain.

We remain committed to further improvements with existing resources. We believe the measures already implemented, as described above, will continue to improve Treasury-wide FOIA performance. My team and I will continue to lean forward to drive additional improvements and to provide as much information as we can, as quickly as we can, within both the spirit and letter of FOIA.

I welcome your questions today.

Thank you.