



REQUEST UNDER THE FREEDOM OF INFORMATION ACT
EXDPEDITED PROCESSING REQUESTED

March 13, 2023

FDIC, Legal Division
FOIA/PA Group
550 17th Street, N.W.
Washington, DC 20429

By electronic mail: efoia@fdic.gov

**RE: FOIA Request – Seeking certain agency records re SVB
EXDPEDITED PROCESSING REQUESTED¹**

Dear FDIC FOIA Staff,

On behalf of Government Accountability & Oversight, a 501(c)(3) non-profit public policy institute with research, investigative journalism and publication functions, as part of a transparency initiative seeking public records relating to environmental and energy policy and related activities at various agencies at all levels of government, which includes an active campaign of broad dissemination of public information obtained under open records and freedom of information laws to the broader population, pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, **please provide** copies of:

- 1) **all** emails dated at any time from **March 9, 2023 through March 13, 2023**, inclusive that a) were sent to or from or copy i) Martin J. Gruenberg, ii) Betty Rudolph, iii) Amy C. Thompson, *and/or* iv) Andy Jiminez, b) which also were sent to or from or copy i) Ami Bera, ii) Doris Matsui, iii) Mike Thompson, iv) Jared Huffman, v) Ro

¹ Pursuant to §309.5 (d)(3), I certify to the best of my knowledge and belief that the contents of this document, including but not limited to facts set forth in the request for expedited processing, are true and correct to the best of my knowledge and belief.

- Khanna and/or vi) Sheila Bair;
- 2) all emails dated at any time from **February 1, 2023 through March 8, 2023**, inclusive that a) were sent to or from or copy i) Martin J. Gruenberg, ii) Betty Rudolph, iii) Amy C. Thompson, and/or iv) Andy Jiminez, b) which also were sent to or from or copy i) Ami Bera, ii) Doris Matsui, iii) Mike Thompson, iv) Jared Huffman and/or v) Sheila Bair, and c) include any of the following (not cases sensitive) i) diversity, ii) climate, iii) ESG, iv) pride month, and/or v) SVB; and
 - 3) all text (SMS or MMC), Signal, Telegram and/or WhatsApp messages dated at any time from March 9, 2023 through March 13, 2023, inclusive that a) were sent to or from or copy i) Martin J. Gruenberg, ii) Betty Rudolph, iii) Amy C. Thompson, and/or iv) Andy Jiminez, b) which also were sent to or from or copy i) Ami Bera, ii) Doris Matsui, iii) Mike Thompson, iv) Jared Huffman, v) Ro Khanna and/or vi) Sheila Bair.

This request is designed to capture records relevant to the current public interest in the recent failures of Silicon Valley Bank and Signature Bank, especially with respect to distraction by financial institutions, and regulators, with certain ancillary or political issues rather than focusing on their core responsibilities. All records responsive to this request should already be centrally located and packaged for release. As such there should be no processing or copying costs. Regardless, we note the below.

FDIC Owes GAO a Reasonable Search, Which Includes a Non-Conflicted Search

FOIA requires an agency to make a reasonable search of records, judged by the specific facts surrounding each request. *See, e.g., Itrurralde v. Comptroller of the Currency*, 315 F.3d 311, 315(D.C. Cir. 2003); *Steinberg v. DOJ*, 23 F.3d 548, 551 (D.C. Cir. 1994).

It is well-settled that Congress, through FOIA, “sought ‘to open agency action to the light of public scrutiny.’” *DOJ v. Reporters Comm. for Freedom of Press*, 498 U.S. 749, 772 (1989) (quoting *Dep’t of Air Force v. Rose*, 425 U.S. 353, 372 (1976)). The legislative history is replete with reference to the “‘general philosophy of full agency disclosure’” that animates the statute. *Rose*, 425 U.S. at 360 (quoting S.Rep. No. 813, 89th Cong., 2nd Sess., 3 (1965)). The act is designed to “pierce the veil of administrative secrecy and to open agency action to the

light of scrutiny.” *Department of the Air Force v. Rose*, 425 U.S. 352 (1976). It is a transparency-forcing law, consistent with “the basic policy that disclosure, not secrecy, is the dominant objective of the Act.” *Id.*

A search must be “reasonably calculated to uncover all relevant documents.” *See, e.g., Nation Magazine v. U.S. Customs Serv.*, 71 F.3d 885, 890 (D.C. Cir. 1995). In determining whether or not a search is “reasonable,” courts have been mindful of the purpose of FOIA to bring about the broadest possible disclosure. *See Campbell v. DOJ*, 164 F.3d 20, 27 (D.C. Cir. 1999) (“reasonableness” is assessed “consistent with congressional intent tilting the scale in favor of disclosure”). *See also, e.g., Landmark Legal Foundation v. EPA*, No. 12-1726, 2013 WL 4083285 (D.D.C. Aug. 14, 2013), 2013 WL 4083285, *5 (summary judgment precluded due to inadequate search where “EPA did not search the *personal* email accounts of the Administrator, the Deputy Administrator, or the Chief of Staff,” but rather only searched only “accounts *that were in its possession and control*,” despite the existence of “evidence that upper-level EPA officials conducted official business from their personal email accounts”) (*italics in original*); *id.* at *8 (noting that “the possibility that unsearched personal email accounts may have been used for official business raises the possibility that leaders in the EPA may have purposefully attempted to skirt disclosure under the FOIA.”); Michael D. Pepson & Daniel Z. Epstein, *Gmail.Gov: When Politics Gets Personal, Does the Public Have a Right to Know?*, 13 Engage J. 4, 4 (2012) (FOIA covers emails sent using private email accounts); Senate EPW Committee, Minority Report, *A Call for Sunshine: EPA’s FOIA and Federal Records Failures Uncovered* (Sept. 9, 2013) at 8 (FOIA “includes emails sent or received on an employee’s personal email account” if subject “relates to official business”),

http://www.epw.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=513a8b4f-abd7-40ef-a43b-dec0081b5a62; accord *Mollick v. Township of Worcester*, 32 A.3d 859, 872-73 (Pa.Cmwlth 2011) (officials' private email addresses covered under open-records laws); *Barkeyville Borough v. Stearns*, 35 A.3d 91, 95-96 (Pa.Cmwlth 2012) (same).

The reasonableness of the search activity is determined ad hoc but there are rules, including that the search must be conducted free from conflict of interest. (In searching for relevant documents, agencies have a duty “to ensure that abuse and conflicts of interest do not occur.” *Cuban v. S.E.C.*, 744 F.Supp.2d 60, 72 (D.D.C. 2010). See also *Kempker-Cloyd v. Department of Justice*, No. 97-cv-253, 1999 U.S. Dist. LEXIS 4813, at *12, *24 (W.D. Mich. Mar. 12, 1999) (holding that the purpose of FOIA is defeated if employees can simply assert that records are personal without agency review; faulting Department of Justice for the fact that it “was aware that employee had withheld records as ‘personal’ but did not require that ‘he submit those records for review’ by the Department.”).

For these reasons GAO expects this search of the above-cited account be conducted free from conflict of interest. Regarding any non-official accounts, this means either someone other than the official (who is the person imaginable) conduct the search or the search by supervised by an agency official.

Withholding and Redaction

If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, I ask that you indicate this fact and the reasons therefore in your response.

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under the FOIA unless the agency reasonably believes release of the information

will harm an interest that is protected by the exemption. FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

Should you decide to invoke a FOIA exemption, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger which includes:

1. Basic factual material about each withheld record, including the originator, recipients, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you should seek to withhold or redact any responsive records or parts thereof, we request that you: (1) identify each such record with specificity (including date, author, recipient, and parties copied); (2) explain in full the basis for withholding responsive material; and (3) provide all segregable portions of the records for which you claim a specific exemption. 5 U.S.C. § 552(b). Please correlate any redactions with specific exemptions under FOIA.

GAO is willing to receive records on a rolling basis, but only within the requirements of FOIA.

Please identify and inform us of all responsive or potentially responsive records within the statutorily prescribed time, and the basis of any claimed exemptions or privilege and to which specific responsive or potentially responsive record(s) such objection applies.

If FDIC claims any records or portions thereof are exempt under one of FOIA's discretionary exemptions we request you exercise that discretion and release them consistent with statements by a recent President and Attorney General, *inter alia*, that "**The old rules**

said that if there was a defensible argument for not disclosing something to the American people, then it should not be disclosed. That era is now over, starting today” (President Barack Obama, January 21, 2009), and “Under the Attorney General’s Guidelines, agencies are encouraged to make discretionary releases. Thus, even if an exemption would apply to a record, discretionary disclosures are encouraged. Such releases are possible for records covered by a number of FOIA exemptions, including Exemptions 2, 5, 7, 8, and 9, but they will be most applicable under Exemption 5.” (Department of Justice, Office of Information Policy, OIP Guidance, “Creating a ‘New Era of Open Government’”).

Nonetheless, if your office takes the position that any portion of the requested records is exempt from disclosure, please inform us of the basis of any partial denials or redactions. In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable, non-exempt portions of the requested records. See 5 U.S.C. §552(b).

Further, we request that you provide us with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972), with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA” pursuant to *Founding Church of Scientology v. Bell*, 603 F.2d 945, 959 (D.C. Cir. 1979), and “describ[ing] each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information.” *King v. Department of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987).

We remind FDIC that it cannot withhold entire documents rather than producing their

“factual content” and redacting the confidential advice and opinions. As the D.C. Court of Appeals noted, the agency must “describe the factual content of the documents and disclose it or provide an adequate justification for concluding that it is not segregable from the exempt portions of the documents.” *Id.* at 254 n.28. As an example of how entire records should not be withheld when there is reasonably segregable information, we note that basic identifying information (who, what, when) is not “deliberative”. As the courts have emphasized, “the deliberative process privilege directly protects advice and opinions and *does not permit the nondisclosure of underlying facts* unless they would indirectly reveal the advice, opinions, and evaluations circulated within the agency as part of its decision-making process.” *See Mead Data Central v. Department of the Air Force*, 566 F.2d 242, 254 n.28 (D.C. Cir. 1977) (emphasis added).

That means, do not redact the requesting party and the Office’s initial determination, or grounds there-for, in the event that determination was a denial. For example, FDIC must cease its historic pattern and others of over-broad claims of b5 “deliberative process” exemptions to withhold information which is not in fact truly antecedent to the adoption of an agency policy (*see Jordan v. DoJ*, 591 F.2d 753, 774 (D.C. Cir. 1978)), but merely embarrassing or inconvenient to disclose.

If it is your position that a document contains non-exempt segments and that those non-exempt segments are so dispersed throughout the documents as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed through the document. *See Mead Data Central v. Department of the Air Force*, 455 F.2d at 261.

Claims of non-segregability must be made with the same practical detail as required for claims of exemption in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Satisfying this Request contemplates providing copies of documents, in electronic format if you possess them as such, otherwise photocopies are acceptable.

Please provide responsive documents in complete form, with any appendices or attachments as the case may be.

DATA DELIVERY STANDARDS

Format of Requested Records

Under FOIA, you are obligated to provide records in a readily accessible electronic format and in the format requested. See, *e.g.*, 5 U.S.C. § 552(a)(3)(B) (“In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.”). “Readily accessible” means text-searchable and OCR-formatted. See 5 U.S.C. § 552(a)(3)(B).

GAO requests records on your system, *e.g.*, its backend logs, and does not seek only those records which survive on an employee’s own machine or account. We do not demand your office produce requested information in any particular form, instead **we request records in their native form**, with specific reference to the U.S. Securities and Exchange Commission Data Delivery Standards.² The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, “Electronic files must be produced in their

² <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.

native format, i.e., the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. *(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)*” (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

REQUEST FOR WAIVER OR REDUCITON OF FEES

Government Accountability & Oversight requests a waiver or substantial reduction of

fees associated with processing this request. **Our request for fee waiver is in the alternative, first for reasons of significant public interest, and second, on the basis of the Government Accountability & Oversight’ status as a media outlet.** The Office must address both of these requests for fee waiver in the event it denies one; failure to do so is *prima facie* arbitrary and capricious.

We do not seek the information for a commercial purpose. Government Accountability & Oversight is a non-profit policy organization, which actively publishes and broadly disseminates public records pertaining to energy and environmental policymaking and does so without commercial interest.

The below clearly demonstrate:

1. The subject of this request concerns “the operations or activities of the government;
2. The disclosure is “likely to contribute” to an understanding of government operations and activities;
3. The disclosure is likely to contribute to the “public understanding” of government operations and activities; and
4. The public’s understanding of the subject will be enhanced to a significant extent as compared to its prior understanding.

GAO has the Ability to Disseminate the Requested Information Broadly.

GAO is dedicated to obtaining and disseminating information relating to energy and environmental public policy. A key component of being able to fulfill this mission and educate the public about these duties is access to information that reflects how senior government officials, and particularly political appointees given their often highly ideological and activist backgrounds (as in this case), perform their duties.

Public oversight and enhanced understanding of the Administration’s performance of its

duties is absolutely necessary. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information to a reasonably broad audience of persons interested in the subject. *Carney v U.S. Dept. of Justice*, 19 F.3d 807 (2nd Cir. 1994). GAO need not show how it intends to distribute the information, because “[n]othing in FOIA, the [agency] regulation, or our case law require[s] such pointless specificity.” *Judicial Watch*, 326 F.3d at 1314. It is sufficient for GAO to show how it distributes information to the public generally. *Id.*

Nonetheless, GAO has both the intent and the ability to convey any information obtained through this request to the public. Government Accountability & Oversight publishes its findings regularly through the organization’s websites, govoversight.org and climatelitigationwatch.org. This work is frequently cited in newspapers and trade and political publications. GAO intends to publish information from requested records on its website, distribute the records and expert analysis to its followers through social media channels including Facebook and other similar platforms.

Through these means, GAO will ensure: (1) that the information requested contributes significantly to the public’s understanding of the government’s operations or activities; (2) that the information enhances the public’s understanding to a greater degree than currently exists; (3) that GAO possesses the expertise to explain the requested information to the public; (4) that GAO possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes GAO as a reliable source in the field of government officials’ conduct.

Obtaining the Requested Records is of No Commercial Interest to the Requester.

Access to government records, disclosure forms, and similar materials through FOIA

requests is essential to GAO fulfilling its role of educating the general public. GAO is a nonprofit public policy institute dedicated to transparency in public energy and environmental policy. Due to its nonprofit mission, GAO has no commercial interest and will realize no commercial benefit from the release of the requested records.

The Subject of the Request Concerns “the Operations or Activities of the Government”.

This request concerns the official correspondence of senior officials about *a matter of demonstrable public interest as the print, broadcast and internet media coverage from March 10 through today prove without question*. More important, it seeks information that, to GAO’s knowledge is not in the public domain as the media for creating these records. As such, this request is particularly important as it likely breaks new ground in terms of accessing information.

The Disclosure of the Records is “Likely to Contribute” to an Understanding of Government Operations.

The requested records, if they exist, reflect correspondence of a sort that to GAO’s knowledge has not yet been released by the agency and which obscurity suggests the real possibility that non-official accounts contain previously untapped resources of much information that will educate the public on “what its government is up to.” These records also likely pertain to meeting with parties outside the Office and are likely to reflect the policy priorities of a senior Office official and those outside parties. Any records responsive to this request therefore are likely to have an informative value and are “likely to contribute to an understanding of Federal government operations or activities”.

The Disclosure of the Records is Likely to Contribute to the “Public Understanding” of Government Operations and Activities.

The Requester has both the intent and the ability to convey any information obtained through this request to the public. Government Accountability & Oversight publishes its finding

regularly through the organization's websites. This work is frequently cited in newspapers and trade and political publications. Requester intends to broadly disseminate public information obtained under this FOIA as it has other information relevant to its mission and work. As noted earlier in this request, GAO is a non-profit public policy organization dedicated to informing the public of developments in the areas of energy and environmental issues and relationships between governmental and non-governmental entities as they relate to those issues. GAO's ability to obtain fee waivers is essential to this work. GAO intends to use any responsive information to continue its work highlighting the nexus between interested non-governmental entities and government agency decision-making. The public is both interested in and entitled to know how decisions are reached to use official resources. GAO ensures the public is made aware of its work and findings via media and its websites. The public information obtained by GAO on its own behalf or on behalf of others have been relied upon by established media outlets, including the Washington Times and Wall Street Journal editorial page.

The Public's Understanding of the Subject will be Enhanced to a Significant Extent as Compared to its Prior Understanding.

The Requester repeats and incorporates here by reference the arguments above from the discussion of how disclosure is "likely to contribute" to an understanding of specific government operations or activities.

The Requester has stated "with reasonable specificity that its request pertains to operations of the government," and that it intends to broadly disseminate responsive records. Therefore, **Government Accountability & Oversight** *first* seeks waiver of any fees under FOIA on the above significant public interest basis. Disclosure of records responsive to this request will contribute "significantly" to public understanding of government operations or activities. 5 U.S.C. § 552(a) (4)(A)(iii) ("Documents

shall be furnished without any charge...if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester”).

In the alternative, GAO requests a waiver or reduction of fees as a representative of the news media. The provisions for determining whether a requesting party is a representative of the news media, and the “significant public interest” provision, are not mutually exclusive. As Government Accountability & Oversight is a non-commercial requester, it is entitled to liberal construction of the fee waiver standards. 5 U.S.C.S. § 552(a)(4)(A)(iii), *Perkins v. U.S. Department of Veterans Affairs*, 754 F.Supp.2d. 1 (D.D.C. 2010). Alternately and only in the event the Office refuses to waive our fees under the “significant public interest” test, which Requester would then appeal while requesting the Office proceed with processing on the grounds that Government Accountability & Oversight is a media organization. GAO asks for a waiver or limitation of processing fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii) (“fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by.... a representative of the news media...”)

The agency must address both of these requests for fee waiver in the event it denies one; failure to do so is *prima facie* arbitrary and capricious.

Government Accountability & Oversight looks forward to your response. If you have any questions, please contact me at the below email address. All records and any related correspondence should be sent to my attention at the address below.

Expedited Processing

Given the extremely timely nature of the specific facts involved here as described herein

on pages 1-2 and 15, GAO requests expedited processing. To facilitate this request, we request that the FOIA office use the email Enterprise Records and Document Management System (eERDMS) or any similar system in place to search and to process this request.

Expedited processing of requests requires a “compelling need,” a need that can be demonstrated by an urgency to inform the public about an actual or alleged Federal government activity. 12 C.F.R. § 309.5(d)(3)(i). The regulation requires a requester be primarily engaged in disseminating information in order to inform the public concerning actual or alleged Federal government activity. GAO is expressly dedicated to obtaining and disseminating public information to educate the public on such activity. <https://govoversight.org> GAO regularly disseminates records obtained on social media and its website and records obtained by GAO have provided essential background for work produced by a national newspaper of record, widely read online political publications and trade industry publications.

The gravity of the issues unfolding with regards to the SVB bank failure,³ followed immediately by one other (Signature), and the obvious and manifesting risk created by financial institutions and their regulators refocusing from their core missions to “social” objectives, as well as the declaration of “systemic risk”, many factors suggesting otherwise notwithstanding — see, e.g., “The Silicon Valley Bank Bailout,” Wall Street Journal, March 12, 2023, <https://www.wsj.com/articles/the-silicon-valley-bank-bailout-chorus-yellen-treasury-fed-fdic->

³ Numerous federal agencies and officials have acknowledged the severity of the public’s concern, and the government’s concern, with respect to recent banking failures. Indeed, the President of the United States has even dedicated a speech to the issue. See, e.g., Biden emphasizes US banking system is safe after Silicon Valley Bank collapse, <https://www.cnn.com/2023/03/13/politics/biden-banking-speech/index.html> (March 13, 2023).

[deposit-limit-dodd-frank-run-cc80761e?mod=opinion_lead_pos1](#) — is fundamentally a matter of which there is an “urgency to inform.” We intend to use the information FDIC provides in response to this request to inform the public about FDIC’s interactions and decisions in the days surrounding these recent banking failures.

CONCLUSION

We expect FDIC to release within the statutory period of time all segregable portions of responsive records containing properly exempt information, and to provide information that maybe withheld under FOIA’s discretionary provisions and otherwise proceed with a bias toward disclosure, consistent with the law’s clear intent, judicial precedent affirming this bias, and President Obama’s directive to all federal agencies on January 26, 2009. Memo to the Heads of Exec. Offices and Agencies, Freedom of Information Act, 74 Fed. Reg. 4683 (Jan. 26, 2009) (“The Freedom of Information Act should be administered with a clear presumption: in the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, or because of speculative or abstract fears”).

We expect all aspects of this request be processed free from conflict of interest. We request FDIC provide particularized assurance that it is reviewing some quantity of records with an eye toward production on some estimated schedule, so as to establish some reasonable belief that it is processing our request. 5 U.S.C.A. § 552(a)(6)(A)(i). FDIC must at least inform us of the scope of potentially responsive records, including the scope of the records it plans to produce and the scope of documents that it plans to withhold under any FOIA exemptions; FOIA specifically requires FDIC to immediately notify GAO with a particularized and

substantive determination, and of its determination and its reasoning, as well as GAO's right to appeal; further, FOIA's unusual circumstances safety valve to extend time to make a determination, and its exceptional circumstances safety valve providing additional time for a diligent agency to complete its review of records, indicate that responsive documents must be collected, examined, and reviewed in order to constitute a determination. *See Citizens for Responsible Ethics in Washington v. Federal Election Commission*, 711 F.3d 180, 186 (D.C. Cir. 2013). See also; *Muttitt v. U.S. Central Command*, 813 F. Supp. 2d 221; 2011 U.S. Dist. LEXIS 110396 at *14 (D.D.C. Sept. 28, 2011)(addressing "the statutory requirement that [agencies] provide estimated dates of completion").

We request that the agency furnishes records to my attention as soon as they are identified, preferably electronically, but as needed then to my attention, at the address below. We inform FDIC of our intention to protect our appellate rights on this matter at the earliest date should FDIC not comply with FOIA per, *e.g.*, *CREW v. FEC*.

If you have any questions, please contact me at the below email address.

Sincerely,
/s/ Matthew D. Hardin
Matthew D. Hardin
Executive Director
Government Accountability & Oversight
MatthewDHardin@gmail.com