

# GAO@100 Highlights

Highlights of [GAO-21-254](#), a report to congressional requesters

## Why GAO Did This Study

FOIA, enacted into law more than 50 years ago, requires federal agencies to provide the public with access to government records and information, including through proactive disclosures. FOIA proactive disclosures enhance transparency by ensuring that certain information about the operations and activities of the government is publicly available.

GAO was asked to review federal agencies' efforts to implement FOIA requirements regarding proactive disclosures. This report assesses the extent to which selected agencies (1) aligned their policies and procedures with FOIA requirements, and (2) tracked and reported these disclosures. GAO also assessed the effectiveness of the tools, resources, and oversight provided by DOJ and NARA to address known challenges to agencies' FOIA compliance.

GAO selected three agencies—FAA, HUD, and VHA—that reflect, among other things, a range in the agency-reported number of FOIA requests received and records proactively disclosed. GAO reviewed DOJ, NARA, FAA, HUD, and VHA documents and interviewed agency officials.

## What GAO Recommends

GAO is making eight recommendations to FAA, HUD, VHA, and OIP. These include that OIP should follow up with agencies that report zero proactive disclosures. FAA, HUD, and OIP agreed with the recommendations and OIP said it has begun following up with agencies that report zero proactive disclosures. VA provided comments too late to be included in the report but agreed with the recommendation.

View [GAO-21-254](#). For more information, contact Michelle Sager at (202) 512-6806 or [Sagem@gao.gov](mailto:Sagem@gao.gov).

March 2021

## FREEDOM OF INFORMATION ACT

### Actions Needed to Improve Agency Compliance with Proactive Disclosure Requirements

## What GAO Found

The FOIA Improvement Act of 2016 expanded the requirement for agencies to proactively disclose certain records—making the records publicly available without waiting for specific requests. Of the three agencies GAO reviewed—Federal Aviation Administration (FAA), Department of Housing and Urban Development (HUD), and Veterans Health Administration (VHA)—only VHA aligned its policies and procedures with applicable Freedom of Information Act (FOIA) proactive disclosure requirements. Although FAA officials stated that the agency has processes to identify and post proactive disclosures, it has not documented these processes. HUD has FOIA regulations, updated in 2017, that address proactive disclosure, but its standard operating procedures have outdated sections that do not reflect statutory requirements.

GAO also found that HUD, VHA, and FAA did not fully comply with the statutory reporting requirements and Department of Justice's (DOJ) guidance to accurately report proactive disclosures. The FOIA Improvement Act of 2016 requires agencies to report the number of records the FOIA and program offices proactively disclosed each fiscal year. From fiscal years 2017 through 2019, HUD incorrectly reported zero proactive disclosures, while VHA and FAA did not track and report all required categories of proactive disclosures in fiscal year 2019 (see table).

**Selected Agencies' Freedom of Information Act (FOIA) Offices' Reported Proactive Disclosures**

Fiscal year	Federal Aviation Administration	Housing and Urban Development	Veterans Health Administration
2019	8	0	16
2018	89,687	0	0
2017	90,486	0	58
2016	68,046	12	0

Source: FOIA.gov. | GAO-21-254

DOJ's Office of Information Policy (OIP) is responsible for encouraging agencies' compliance with FOIA, including overseeing the *Annual FOIA Report* that agencies submit to OIP. OIP told GAO that it asked agencies that report zero proactive disclosures to confirm that this was accurate, but it did not follow up with these agencies. For example, OIP asked HUD officials to confirm that HUD intentionally reported zero proactive disclosures, but did not ask why HUD had zero proactive disclosures. In addition, GAO's review of annual FOIA data found that 25 of 118 agencies reported zero proactive disclosures in fiscal years 2018 and 2019. OIP said that agencies with a low volume of requests may have fewer records to proactively disclose. However, by not following up with agencies that report zero proactive disclosures, OIP is not using an available tool that may strengthen its efforts to encourage agencies to make required disclosures.

OIP and National Archives and Records Administration (NARA)'s Office of Government Information Services (OGIS) officials stated that making proactive disclosures accessible is a challenge for agencies. To assist agencies in addressing such challenges, OGIS periodically reviews agencies' compliance with FOIA and recently issued a report that included strategies for making proactive disclosures accessible.