

2015 Chief FOIA Officer Report for The Federal Labor Relations Authority

The Federal Labor Relations Authority (“FLRA” or “agency”) Chief Freedom of Information Act (“FOIA”) Officer Report describes activities that show how the agency has implemented the guiding principle underlying the FOIA aimed at the presumption of openness. President Obama’s January 21, 2009 FOIA Memorandum (“President’s FOIA Memorandum”) and the Attorney General’s FOIA Guidelines were issued in a continuing effort to implement the goals of transparency and openness incorporated in FOIA.

As part of the aim of achieving openness, the Office of Information and Privacy, Department of Justice (“DOJ”) issued updated guidelines for the 2015 Chief FOIA Officer Reports, requiring agencies to report on their FOIA activities. This report addresses the questions raised in the most recent guidance.

Time Frame for Report

The reporting period for this report is from March 2014 to March 2015.

Name and Title of Agency Chief FOIA Officer:

- The Agency – Federal Labor Relations Authority.
- The Chief FOIA Officer – Fred B. Jacob.

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President’s FOIA Memorandum and the Attorney General’s FOIA Guidelines is the presumption of openness. Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

FOIA Training:

- 1. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?**

Since our 2014 Report, the agency has not held a FOIA conference or conducted specific training. No FOIA professionals attending training during the reporting period.

- 2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.**

None of the agency's FOIA professionals attended substantive FOIA training during this reporting period.

- 3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.**

The agency's Chief FOIA Officer informed all FOIA processing personnel about training opportunities. Although no one attended FOIA training during the reporting period, the agency's Chief FOIA Officer also encouraged the agency's FOIA professionals to review the DOJ's website resources, including its Best Practices Series.

Discretionary Releases:

- 4. Does your agency have a distinct process or system in place to review records for discretionary release?**

Yes. It is a standard step for the agency to consider discretionary release whenever it anticipates withholding information under an exemption.

- 5. During the reporting period, did your agency make any discretionary releases of information?**

No. However, the agency does not assert FOIA exemptions often. For instance, in fiscal year 2014, the agency, in response to the 106 FOIA requests and three two FOIA appeals it processed, asserted Exemption 2 once and Exemption 5 once.

- 6. What exemption(s) would have covered the material released as a matter of discretion?**

N/A.

- 7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.**

N/A. See response above to question 5.

- 8. If your agency was not able to make any discretionary releases of information, please explain why.**

As reflected in the response above to question 5, most FOIA requests that the agency processes are not for information that could be covered by a FOIA exemption.

Other Initiatives:

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

The Chief FOIA Officer periodically reviews the agency's FOIA website to determine if there are additional materials beyond those covered by FOIA requests which are appropriate for posting. He also periodically contacts the IT unit and other key agency personnel to determine if there are additional materials appropriate for posting on the agency's FOIA website.

Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program. Please answer the following questions to describe the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient.

Processing Procedures:

- 1. For Fiscal Year 2014, 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 2014 Annual FOIA Report.**

The FLRA maintained an average of 8.5 days to adjudicate the 4 requests it received for expedited processing. During this fiscal year, the Chief FOIA Officer has set up a system of reminding FOIA staff assigned requests for expedited processing to respond to them within 10 calendar days rather than first addressing them in response to the underlying FOIA requests.

- 2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.**

N/A.

Requester Services:

- 3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?**

Yes. It is a standard step for the agency to notify requesters of OGIS services in its responses to FOIA appeals.

- 4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester?**

The FLRA did not assess any fees since March 2014.

- 5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester?**

N/A.

Other Initiatives:

- 6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.**

As noted in the agency's 2014 Chief FOIA Officer Report, as a national coordinator for the agency's FOIAonline case tracking system, the Chief FOIA Officer has access to each agency FOIA processing unit's requests and processing information about these requests. FOIAonline and the Chief FOIA Officer's regular monitoring of the system help ensure that all FOIA requests are handled in a uniform and timely manner.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received. Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites.

Posting Material:

- 1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.**

Yes. The Chief FOIA Officer periodically reviews the agency's FOIA website and contacts the IT unit and other key FLRA personnel to determine if there are additional materials beyond those covered by FOIA requests that are appropriate for posting.

- 2. Does your process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.**

As described above, the system involves collaboration with the IT unit. The Chief FOIA officer also works with the FLRA's Chairman, the Executive Director, and the Chief of Case Intake and Publication.

- 3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.**

The Chief FOIA Officer periodically reviews past requests to determine whether there are frequently requested records and, if there are, makes an assessment as to whether the records should be posted online.

- 4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.**

The agency continuously updates the website with the most recent FLRA, ALJ, and FSIP decisions and has updated the FLRA Telephone Directory and Purchase Card Holders List. This is a link to the agency's electronic reading room:

<http://www.flra.gov/elibrary>.

Other Initiatives:

- 5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.**

As noted above, the Chief FOIA Officer periodically reviews the agency's FOIA website and contacts the IT unit and other key agency personnel to determine if there are additional materials beyond those covered by FOIA requests that are appropriate for posting.

Section IV: Steps Taken to Greater Utilize Technology

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information.

Making Material Posted Online More Useful:

- 1. 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?**

The agency holds periodic meetings with the public and issues press releases to disseminate significant information regarding its operations. Through these communication channels the agency has obtained feedback about, among other things, the website content and presentation. The agency then decides which of the suggestions to implement.

- 2. If yes, please provide examples of such improvements.**

The agency continues to place the most recent decisions, training, and news announcements on the home page of the website. For example, the website has been updated to provide the public information on the nomination and/or appointment of Members and key agency staff employees, and office relocation information. This is done to provide the public easier access to key agency information.

- 3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?**

No.

4. **If so, please briefly explain what those challenges are.**

N/A.

Other Initiatives:

5. **Did your agency successfully post all four quarterly reports for Fiscal Year 2014?**

Yes, the agency posted all of the required quarterly reports for Fiscal Year 2014.

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 Fiscal Year 2015.**

N/A.

7. **Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? If yes, what are the different types of electronic means that are utilized by your agency to communicate with requesters?**

Yes, the agency's FOIA professionals use e-mail to communicate with requesters when feasible. Additionally, through the agency's online tracking system, a requester can determine: (1) if the request has been submitted; (2) if the request is being evaluated to determine whether it is perfected; (3) if the request has been assigned; (4) if the request is being processed; and (5) if the request is closed.

8. **If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?**

The agency uses email as a default.

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2014 Annual FOIA Report and, when applicable, your agency's 2013 Annual FOIA Report.

Simple Track: Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

Yes.

2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

The average number of days was fewer than 20 working days -- it was under 9 working days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

95%

4. 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. The agency does track simple requests separately.

Backlogs: Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

Backlogged Requests

5. If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

The agency had no backlog of requests in either Fiscal Year 2013 or Fiscal Year 2014.

- 6. 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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."**

N/A.

Backlogged Appeals

- 7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?**

The agency had no backlog of administrative appeals in either Fiscal Year 2013 or Fiscal Year 2014.

- 8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."**

N/A.

Status of Ten Oldest Requests, Appeals, and Consultations: Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

Ten Oldest Requests

- 9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?**

In Fiscal Year 2014, there were three pending FOIA requests from Fiscal Year 2013, and the agency closed them in Fiscal Year 2014.

10. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A.

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

None of the closed requests were withdrawn by the requester.

Ten Oldest Appeals

12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

The agency had one pending appeal at the end of Fiscal Year 2013, and it was closed in Fiscal Year 2014.

13. 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 VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

As stated above, the agency had one pending appeal at the end of Fiscal Year 2013, and it was closed in Fiscal Year 2014.

Ten Oldest Consultations

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?

The agency did not have any pending consultations as of the end of Fiscal Year 2013.

15. 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 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

As mentioned above, the agency did not have pending consultations at the end of Fiscal Year 2013.

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans:

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

N/A.

17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A.

18. 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 2015.

N/A.

Use of the FOIA's Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014? If so, please provide the total number of times exclusions were invoked.

The agency did not invoke the statutory exclusions during the fiscal year.

Spotlight on Success

- One of the major success stories for the agency continues to be the enhancement of its website, which provides access to the most current decisions, case processing data, program training, and information about all of the agency's activities.
- Also, of special note is that the agency is one of the five founding partners of FOIAonline. FOIAonline is a cost effective FOIA request tracking system which, with its continuing development, will save the agency time and effort in tracking its FOIA work and fulfilling its reporting requirements.