

2013 Chief FOIA Officer Report for The Federal Labor Relations Authority

The Federal Labor Relations Authority (FLRA) Chief Freedom of Information Act (FOIA) Officer Report describes activities which 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 guidance on September 26, 2012, requiring agencies to report on their FOIA activities focused on this goal.

Time Frame for Report

The reporting period for this report is from March 2012 to March 2013.

Name and Title of Agency Chief FOIA Officer:

The Agency -- The Federal Labor Relations Authority.
The Chief FOIA Officer – Solicitor, Rosa M. Koppel.

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.

Describe the steps FLRA has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Since our 2012 Report, the agency has not held a FOIA conference or conducted specific training.

Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

The agency's Chief FOIA Officer encourages all FOIA processing personnel to attend training.

Although no one attended FOIA training during the reporting period, the agency's Chief FOIA Officer distributed the DOJ's Refresher Training slides to each FOIA processing component to assist in its preparation of the agency's FOIA Annual report.

2. Did your agency make any discretionary releases of otherwise exempt information?

The agency has generally encouraged such discretionary releases but does not have enough specific information to estimate the extent to which discretionary releases have been made.

3. What exemptions would have covered the information that was released as a matter of discretion?

Generally, FOIA exemption 5 would cover the information that is released as a matter of discretion.

4. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

All FOIA processing components are encouraged to review on a case-by-case basis their FOIA responses to determine if discretionary record releases are possible.

5. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

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. She also periodically contacts the IT unit and other key FLRA personnel to determine if there are additional materials appropriate for posting on the agency's FOIA website.

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." Set forth below are responses to

questions showing how the FLRA ensures that its FOIA system is efficient and effective.

1. Do FOIA professionals within your agency have sufficient IT support?

FOIA professionals have limited but sufficient IT support. As of October 1, 2012, the public can now submit FOIA requests to the FLRA via FOIAonline. As FLRA FOIA professionals get more acclimated to FOIAonline and enhancements are added to the system, our need for IT support of the FOIA function will continue to decrease.

2. Do your FOIA professionals work with your agency's Open Government Team?

The senior official in charge of the FLRA's Open Government program oversees the Chief FOIA Officer and the IT team, and the agency's FOIA professionals interact with the Chief FOIA Officer and IT team on an as-needed basis.

3. Has your agency assessed whether adequate staffing is being devoted to FOIA administration.

Adequate staffing is being devoted to FOIA administration.

4. Describe 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, streamlining consultations, eliminating redundancy, etc.

As we noted in the FLRA's 2012 Report, using the FOIA case tracking system, the Chief FOIA Officer has access to each agency FOIA processing unit's requests and processing information about these requests. The case tracking system helps assure that all FOIA requests are handled in a uniform and timely manner.

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.

In response to questions listed below, the FLRA describes steps it has taken to increase the amount of material that is available on its website, including

providing examples of proactive disclosures that have been made since issuance of the new FOIA Guidelines.

1. Provide examples of materials that your agency has posted this past year.

The agency has updated the FLRA Telephone Directory and Purchase Card Holders List. It posted the Chief FOIA Officer's Report for 2012, and the FLRA's FOIA Annual Report for FY 2012.

2. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc.?

The agency holds periodic town hall 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 is deciding which of the suggestions to implement.

3. If so, provide examples of such improvements.

The FLRA places 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 FLRA staff employees, case processing with one Member, and office relocation information. This is done to provide the public easier access to key agency information.

4. Describe any other steps taken to increase proactive disclosures at your agency.

As noted above, 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.

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. The FLRA’s response to the following questions indicates how the agency is meeting these goals:

Electronic receipt of FOIA requests:

1. Can FOIA requests be made electronically to your agency?

Yes.

2. If your agency is decentralized, can FOIA requests be made electronically to *all* components of your agency?

All FOIA responding components have the capability to receive the requests electronically, by fax, and, since October 1, 2012, via FOIAonline.

Online tracking of FOIA requests:

3. Can a FOIA requester track the status of his/her request electronically?

Yes, a requester can electronically track the status of his/her FOIA requests.

4. If so, describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is “open” or “closed,” while others will provide further details to the requester throughout the course of the processing, such as “search commenced” or “documents currently in review.” List the specific types of information that are available through your agency's tracking system.

Using FOIAonline, 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.

5. In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?

FOIAonline allows a requester to get an estimated date of completion for his/her request.

- 6. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability?**

Not applicable.

Use of technology to facilitate processing of requests:

- 7. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?**

Now that it is using FOIAonline, the agency anticipates preparing future Annual FOIA Reports electronically.

- 8. If so, describe the technological improvements being made.**

With FOIAonline, the agency should be able to make more technological improvements to the FOIA processes. Specifically, the new system allows the public to track their requests on the agency website.

V. Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

Improvements to timeliness in responding to pending FOIA requests and reductions in backlogs are both ongoing agency efforts. The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses these goals.

- 1. Section VII.A of FLRA’s Annual FOIA Report, entitled “FOIA Requests – Response Time for All Processed Requests,” includes figures that show the 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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.**

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

Yes.

- b. **If so, for your agency overall, for Fiscal Year 2012, was the average number of days to process simple requests twenty working days or fewer?**

The average number of days was fewer than twenty working days -- it was eleven.

- c. **If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?**

The agency does track simple requests separately.

2. **Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2012 as compared to Fiscal Year 2011. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C. (5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2011 and Fiscal Year 2012 should be used for this section.**

- a. **If your agency had a backlog of requests at the close of Fiscal Year 2012, did that backlog decrease as compared with Fiscal Year 2011?**

The FLRA had no backlog.

- b. **If your agency had a backlog of administrative appeals in Fiscal Year 2012, did that backlog decrease as compared to Fiscal Year 2011?**

There were no backlogged appeals in Fiscal Year 2012.

- c. **In Fiscal Year 2012, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2011?**

In Fiscal Year 2012, there were no pending FOIA requests from Fiscal Year 2011.

- d. In Fiscal Year 2012, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2011?**

The FLRA did not have pending appeals at the end of Fiscal Year 2011.

- b. If you answered “no” to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:**

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?**

Not applicable.

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?**

Not applicable.

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?**

Not applicable.

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?**

Not applicable.

Administrative Appeal Backlog:

- a. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?**

Not applicable.

- b. Was the lack of a reduction in the appeal backlog caused by a loss of staff?**

Not applicable.

- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?**

Not applicable.

- d. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?**

Not applicable.

- 4. OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information. If your agency had a backlog in Fiscal Year 2012, please provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.**

Not applicable.

Use of FOIA's Law Enforcement "Exclusions"

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

- 1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?**

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

- 2. If so, what is the total number of times exclusions were invoked?**

Not applicable.

Spotlight on Success

One of the major success stories for the FLRA was 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 this year is that the FLRA is one of the five founding partners of FOIAonline. It joined as of October 1, 2012. FOIAonline is a cost effective FOIA request tracking system which, with its continuing development, will save the FLRA time in tracking its FOIA work and fulfilling its reporting requirements.