

## **2012 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 November 16, 2011, 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 2011 to March 2012.

*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 2011 Report, the agency has not held a FOIA conference or conducted specific training.

2. 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.

3. 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.

4. 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.

5. Describe your agency's process to review records to determine whether discretionary releases are possible.

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.

6. 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.

#### *Disclosure Comparisons*

7. Did your agency have an increase in the number of responses where records were released in full?

As reflected in figures below, the FLRA increased the number of full grant releases in response to FOIA requests during FY 2011 in comparison to FY 2010:

In Fiscal Year 2010, the FLRA made 29 full grants.  
In Fiscal Year 2011, the FLRA made 32 full grants.

8. Did your agency have an increase in the number of responses where records were released in part?

The figures set forth below indicate that the FLRA increased the number of partial grant releases in response to FOIA requests during FY 2011 in comparison to FY 2010:

In Fiscal Year 2010, the FLRA made 19 partial grants.  
In Fiscal Year 2011, the FLRA made 26 partial grants.

## **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 IT support, however with the purchase of the new FOIA case tracking software in 2010 and the planned installation of another system, the agency will gain more access to such support.

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

Generally, FOIA professionals work independently without regular interaction with the Chief FOIA Officer. Instruction occurs on an as-needed basis.

3. 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.

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

Adequate staffing is being devoted to FOIA administration.

5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

As we noted in the FLRA's 2011 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. Has your agency added new material to your agency website since last year?

The agency has added new information.

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

The agency has updated the FLRA Telephone Directory and Purchase Card Holders List. It posted new information linking users to DOJ's guidance on the narrowing of Exemption 2 resulting from the Supreme Court's decision in *Milner v. Dep't of the Navy*, 131 S. Ct. 1259 (2011). Also, newly posted information included the Chief FOIA Officer's Report for 2011, the FLRA's FOIA Annual Report for FY 2010, and the Overview of the Privacy Act of 1974, 2010 Edition.

3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

The FOIA case tracking software provides the agency's Chief FOIA Officer as well as other key FOIA processing personnel with the capability to review requested records subject to FOIA requests and determine if those records should be posted on the website.

4. 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, 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.

5. 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 processes requests on a decentralized basis, do all components of your agency receive requests electronically?

All FOIA responding components have the capability to receive the requests by email through the agency's computer system or by fax.

*Online tracking of FOIA requests:*

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

Currently, this electronic tracking capability is not available to FOIA requesters.

4. If not, is your agency taking steps to establish this capability?

The agency is in the process of installing a new, cloud-based' FOIA case tracking system and anticipates using it to allow FOIA requesters to track the status of their requests electronically.

*Use of technology to facilitate processing of requests:*

5. 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?

As noted, installation of a new agency FOIA case tracking system is in process under which the agency anticipates preparing future Annual FOIA Reports electronically. We expect the transition to be complete by the end of the first quarter of calendar year 2012.

6. If so, describe the technological improvements being made.

With the installation of the new tracking system, the agency should be able to make more technological improvements in the FOIA processes. Specifically, once the new system is in place, the agency will have in place on its website an online request tracker for the public. As noted above, we expect the new tracking system to be in place by the end of the first quarter of calendar year 2012.

## **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 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. 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?

No.

- b. If so, for your agency overall, for Fiscal Year 2011, 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 average number of days was fewer than twenty working days -- it was eleven.

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 2011 as compared to Fiscal Year 2010. 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 2010 and Fiscal Year 2011 should be used for this section.

- a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

The FLRA had no backlog.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

In comparison to Fiscal Year 2010, there were no backlogged appeals in Fiscal Year 2011.

- c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

In Fiscal Year 2011, the FLRA closed the one pending FOIA request from Fiscal Year 2010.

- d. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

The FLRA processed all appeals pending at the end of Fiscal Year 2010.

3. 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.

- e. 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.

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes. The Chief FOIA officer monitors pending FOIA requests throughout the agency on at least a weekly basis. The agency sets a goal of responding to incoming FOIA requests within 10 working days of their receipt and perfection.

2. Has your agency increased its FOIA staffing?

There has been no increase in FOIA staffing.

3. Has your agency made IT improvements to increase timeliness?

As noted in the FLRA's 2011 Report, the agency purchased FOIA case tracking software which provides automatic alerts to users of impending due dates. Further, the agency's Chief FOIA Officer as well as other key FOIA processing personnel have the capability to review FOIA request processing to assure timely responses.

The agency is currently installing a new system which should also have the capability of alerting staff to upcoming due dates for FOIA responses.

4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

Generally, the agency does not receive consultations from other agencies.

### **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 2011?

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.

## **VI. Spotlight on Success**

As noted in FLRA's 2011 Report, the agency implemented a new FOIA computerized system. In our ongoing efforts to assure success in FOIA processing, the FLRA purchased another system which will further improve these processes. The new system will provide a FOIA portal on the website for the public to use to track FOIA requests. The portal will be available as soon as the new system is implemented. In our effort to be FOIA user friendly, the agency designated a FOIA Public Liaison: Gina Grippando.