

2014 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 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 2013 to March 2014.

Name and Title of Agency Chief FOIA Officer:

The Agency -- Federal Labor Relations Authority.
The Chief FOIA Officer – 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 the agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

FOIA Training:

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

Since our 2013 Report, the agency has not held a FOIA conference or conducted specific training.

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

N/A

3. 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 preparation of the agency's FOIA Annual report.

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

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

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all of their FOIA professionals at least once each year. Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

The agency will advise all of its FOIA staff of any substantive FOIA training offered by the Department of Justice.

Outreach:

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

Since our 2013 Report, the agency has not engaged in any such outreach.

Discretionary Disclosures:

- 7. Does your agency have a formal process in place to review records for discretionary release? If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.**

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

- 8. During the reporting period did your agency make any discretionary release of otherwise exempt information?**

No. However, the agency does not assert FOIA exemptions often. For instance, in fiscal year 2013, the agency, in response to the 101 FOIA requests and three FOIA appeals it processed, asserted Exemption 2 once, Exemption 5 four times, Exemption 6 once, Exemption 7(A) twice, Exemption 7(c) once, and Exemption 7(D) three times.

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

N/A.

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

N/A. See response above to question 8.

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

As reflected in the response above to question 8, most FOIA requests that the agency processes are not for information that could be covered by a FOIA exemption.

Other Initiatives:

- 12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.**

The agency posted all of the required quarterly reports for Fiscal Year 2013.

13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

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 agency personnel to determine if there are additional materials appropriate for posting on the agency's FOIA website.

II. Steps Taken to Ensure that the 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.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA program is efficient and effective.

Personnel:

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

No.

2. If not, what proportion of personnel has been converted to the new job series?

None.

3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

The agency has no plan to convert the position descriptions of any of its employees who process FOIA requests. The agency has no eligible staff for conversion to the Government Information Specialist job series, 0306, as outlined in OPM's Memorandum for Chief Human Capital Officers Re: Final Position Classification Flysheet for Government Information Series 0306, dated March 9, 2012. Based on a comparison of the assigned duties and responsibilities of each position held by the agency's FOIA staff with OPM's series definitions and general occupational information regarding series 0306, the agency has determined that in no instance is a conversion to series 0306 warranted. Specifically, in no instance does the primary work of the position, the highest level of work performed, or the paramount knowledge required to perform the work of the position warrant such a conversion. Each agency employee who processes FOIA requests does so as one of his or her secondary responsibilities. They are labor law specialists, general attorneys, managers, supervisors, office managers, and staff assistants, and their positions are classified accordingly.

Processing Procedures:

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

No. The FLRA maintained an average of 14.33 days to adjudicate the three 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.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral

altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

The agency takes several steps to make the handling of consultations and referrals more efficient. Within the agency, the Offices of the Solicitor and the General Counsel work together to identify FOIA requests for information that can be found in multiple offices of the agency and to identify the office that will respond on behalf of all the other affected offices.

Requester Services:

- 6. Do you use e-mail or other electronic means to communicate with requesters when feasible?**

Yes.

- 7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?**

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

- 8. 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 noted in the agency's 2013 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 daily monitoring of the system help ensure 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.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

Posting Material:

1. Do your FOIA professionals have a system in place to identify records for proactive disclosure?

Yes.

2. If so, describe the system that is in place.

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.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

The agency 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>

Making Posted Material More Useful:

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 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 then decides which of the suggestions to implement.

5. If so, provide examples of such improvements.

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

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

No.

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

No.

8. 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 agency 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. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

Online Tracking of FOIA Requests:

1. 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 made to any component of the agency.

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

The public can track their FOIA requests to any component of the agency via FOIAonline.

3. 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.

- 4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/ her request?**

FOIAonline provides an automated date based on the statutory deadline and not an actual estimated date of completion.

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

N/A.

Use of technology to facilitate processing of requests:

- 6. 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 is able to prepare Annual and Quarterly FOIA Reports electronically instead of manually, thereby conserving substantial human resources.

- 7. 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.

- 8. Are there additional technological tools that would be helpful to achieving future efficiencies in your agency's FOIA program?**

The agency has not yet identified any such additional tools.

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 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 those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.

Simple Track Requests:

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.

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

Yes.

b. If so, for your agency overall, for Fiscal Year 2013, 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 working days.

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.

Backlogs and "Ten Oldest" Requests, Appeals and Consultations:

2. 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. Section VII.F, 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 2012 and Fiscal Year 2013 when completing this section of your Chief FOIA Officer Report.

Backlogs

a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

The agency had no backlog of requests in either Fiscal Year 2012 or Fiscal Year 2013.

b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

The agency had no backlog of administrative appeals in either Fiscal Year 2012 or Fiscal Year 2013.

Ten Oldest Requests

c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

In Fiscal Year 2013, there was one pending FOIA request from Fiscal Year 2012, and the agency closed it in Fiscal Year 2013.

d. 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 2012 Annual Report. If you had less than ten oldest requests to close, please indicate that. For example, if you had only seven requests listed as part of your “ten oldest” in Section VII.E. and you closed two of them, you should note that you closed two out of seven “oldest” requests.

N/A.

Ten Oldest Appeals

- e. **In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?**

The agency did not have pending appeals at the end of Fiscal Year 2012.

- f. **If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C(5) of your Fiscal Year 2012 Annual FOIA Report.**

The agency did not have pending appeals at the end of Fiscal Year 2012.

Ten Oldest Consultations

- g. **In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?**

The agency did not have pending consultations as of the end of Fiscal Year 2012.

- h. **If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C of your Fiscal Year 2012 Annual Report.**

The agency did not have pending consultations as of the end of Fiscal Year 2012.

Reasons for Any Backlogs:

3. **If you answered “no” to any of the above questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:**

Request and/or Appeal Backlog

- a. **Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?**

N/A.

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

N/A.

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

N/A.

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

N/A.

“Ten oldest” Not Closed

- e. **Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.**

N/A.

- f. **If your agency was unable to close any of its ten oldest requests or appeals 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.

Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs:

4. **If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency**

intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014.

N/A.

5. **If your agency has a backlog of more than 1000 pending requests and did reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.**

N/A.

Interim Responses:

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.

6. **Does your agency have a system in place to provide interim responses to requesters when appropriate?**

Yes.

7. **If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.**

N/A.

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?**

N/A.

Spotlight on Success

One of the major success stories for the agency 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 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.

In addition, the agency was recognized for its "best practices" by the Center for Effective Government in its December 2013 report entitled Best Practices for Freedom of Information Act Regulations.