

## **2016 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 (“OIP”), Department of Justice (“DOJ”) issued updated guidelines for the 2016 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 2015 to March 2016.

*Name and Title of Agency Chief FOIA Officer:*

- The Agency – Federal Labor Relations Authority.
- The Chief FOIA Officer – Solicitor 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 2015 Report, the agency’s FOIA professionals have attended FOIA trainings offered by DOJ’s Office of Information Policy. They attended OIP’s Best Practices Series Workshop focusing on best practices for small agencies in August 2015. They also attended OIP’s FOIA Litigation Seminar in October 2015.

- 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.**

Approximately 15% of the agency's FOIA professionals and staff attended substantive training.

- 3. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.**

The agency's Chief FOIA Officer informed all FOIA processing personnel about training opportunities. Although fewer than 80% attended FOIA training during the reporting period, this is partially due to the majority of professionals working in regional offices where training is more limited. As an alternative, the agency's Chief FOIA Officer has encouraged the agency's FOIA professionals to review the DOJ's website resources, including its Best Practices Series. Moving forward, the agency's Chief FOIA Officer will also attempt to find web-based training suitable for FOIA professionals working in the regional offices.

*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. The agency's components work with the Office of the General Counsel and the Office of the Solicitor to determine whether a discretionary release should be made whenever an exemption could be asserted.

- 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 2015, the agency, in response to the 85 FOIA requests and four FOIA appeals it processed, asserted Exemption 7 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 five.

- 8. If your agency was not able to make any discretionary releases of information, please explain why. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).**

As reflected in the response above to question five, most FOIA requests that the agency processes are not for information that could be covered by a FOIA exemption. In the instance in which Exemption 7 was asserted, the material did not permit discretionary release.

*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 2015, 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 2015 Annual FOIA Report.**

The FLRA maintained an average of 9.29 days to adjudicate the 7 requests it received for expedited processing. 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.

- 3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requester is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a “still interested” inquiry, it has done so in accordance with the new guidelines for doing so, including affording requesters thirty working days to respond.**

N/A. The agency did not send any “still-interested” letters.

*Requester Services:*

- 4. Agency FOIA Requester Service Centers and FOIA Public Liaisons serve as the face and voice of an agency. In this capacity they provide a very important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests. The FOIA also calls on agency FOIA Requester Service Centers and FOIA Public Liaisons to assist requesters in resolving disputes. Please explain here any steps your agency has taken to strengthen these services to better inform requesters about their requests and to prevent or resolve FOIA disputes.**

While there has not been a significant need to strengthen dispute-related services due to low demand, the agency does notify requesters of the mediation program at the Office of Government Information Services at the National Archives and Records Administration in its responses to FOIA appeals.

*Other Initiatives:*

- 5. 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 2015 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. Additionally, agency staff work with its FOIAonline partners across the government to continually improve the case-tracking system.

### 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. Describe your agency's process or system for identifying "frequently requested" records required to be posted online under Subsection (a)(2) of the FOIA. For example, does your agency monitor its FOIA logs or is there some other system in place to identify these records for posting.**

The Chief FOIA Officer works closely with top-level agency officials to ensure that any agency publications or materials that would be subject to Subsection (a)(2) of the FOIA are available to the public and posted to the agency's "electronic reading room" and its website pages dedicated to the agency's decisions, manuals, and other appropriate materials. Currently, there is a process in place to automatically include certain records to the publicly-accessible areas.

- 2. 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 agency personnel to determine if there are additional materials beyond those covered by FOIA requests that are appropriate for posting.

- 3. When making proactive disclosures of records, are your agency's FOIA professionals involved in coding the records for Section 508 compliance or otherwise preparing them for posting? If so, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.**

The agency's FOIA professionals do not prepare proactive disclosures for posting and are not involved in the coding of records for Section 508 purposes.

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

N/A.

**5. If so, please briefly explain those challenges.**

See response to question four, above.

**6. 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 Solicitor's Office briefs. It also regularly updates 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>.

**7. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.**

The agency provides a variety of RSS newsfeeds, which provide interested subscribers with timely notices of records as they are posted to the agency's website. The agency also periodically issues press releases to disseminate significant information regarding its decisions and records, and informs the public of where that information can be found on the agency's website.

*Other Initiatives:*

**8. 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?**

As noted above, 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 key agency staff employees and upcoming agency trainings. This is done to provide the public easier access to key agency information.

### *Other Initiatives:*

- 3. Did your agency successfully post all four quarterly reports for Fiscal Year 2015?**

Yes, the agency timely posted all of the required quarterly reports for Fiscal Year 2015 on its website at <https://www.flra.gov/elibrary>. The reports, however, inadvertently did not link to FOIA.gov. The agency and DOJ's OIP have worked to resolve the issues.



- 4. 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 2016.**

As described in question three above, the agency worked with OIP to resolve the link discrepancies and plans in FY 2016 to successfully post all quarterly reports with data appearing on FOIA.gov.

- 5. 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.

- 6. 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 2015 Annual FOIA Report and, when applicable, your agency's 2014 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 2015, 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 10 working days.

**3. Please provide the percentage of requests processed by your agency in Fiscal Year 2015 that were placed in your simple track.**

Approximately 94%

**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 2014 and Fiscal Year 2015 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 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?**

The agency had no backlog of requests in either Fiscal Year 2014 or Fiscal Year 2015.

- 6. If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.**

N/A.

- 7. 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 2015. 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*

- 8. If your agency had a backlog of appeals at the close of Fiscal Year 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?**

The agency had no backlog of administrative appeals in either Fiscal Year 2014 or Fiscal Year 2015.

- 9. If not, explain why and describe the causes that contributed to your agency not being able reduce backlog.**

N/A.

- 10. 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 2015. If your agency did not receive any appeals in Fiscal Year 2015 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 2014 and Fiscal Year 2015 when completing this section of your Chief FOIA Officer Report.

*Ten Oldest Requests*

- 11. In Fiscal Year 2015, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2014 Annual FOIA Report?**

In Fiscal Year 2015, there was one pending FOIA requests from Fiscal Year 2014, and the agency closed it in Fiscal Year 2015.

- 12. 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 2014 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.**

N/A.

- 13. 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?**

The closed request was not withdrawn by the requester.

*Ten Oldest Appeals*

- 14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?**

The agency had no pending appeals at the end of Fiscal Year 2014.

- 15. 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 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

As stated above, the agency had no pending appeals at the end of Fiscal Year 2014.

*Ten Oldest Consultations*

- 16. In Fiscal Year 2015, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2014 Annual FOIA Report?**

The agency did not have any pending consultations as of the end of Fiscal Year 2014.

- 17. 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 2014 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 2014.

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

- 18. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2014.**

N/A.

- 19. 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.

- 20. 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 2016.**

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 2015? If so, please provide the total number of times exclusions were invoked.**

The agency did not invoke these 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, the agency is one of the five founding partners of FOIAonline, which is a cost effective FOIA request tracking system. With its continuing development, the agency predicts it will save the agency time and effort in tracking its FOIA work and fulfilling its reporting requirements. Due to its success, the number of agencies using the tracking system has more than doubled since it was founded.