



**2015 Chief FOIA Officer Report
NATIONAL LABOR RELATIONS BOARD**

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Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training:

1. Did your agency conduct FOIA training during the reporting period for FOIA professionals?
Yes

2. If yes, please provide a brief description of the type of training conducted and the topics covered.

Newly entering FOIA professionals were trained by our Senior Attorneys and supervisors on exemptions, fee categories, fee waivers, and FOIA processing procedures.

3. Did your FOIA professionals attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice? Yes. The FOIA professionals attended several courses sponsored by DOJ including The Freedom of Information Act for Attorneys and Access Professionals, FOIA Litigation Seminar, Guidance for 2015 Chief FOIA Officers Report and FOIA Annual Report, and several Best Practices Workshops.

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

One hundred percent of FOIA professionals at Headquarters attended FOIA training hosted by DOJ.

5. 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.

All FOIA professionals at Headquarters attended DOJ training. In addition, three FOIA attorneys attended training provided by Office of Government Information Services (OGIS). During Fiscal Year 2014 sufficient funds were not available for FOIA professionals to attend the ASAP Annual Symposium.

With the centralization of FOIA to Headquarters, all FOIA professionals will be centrally located by the end of the fiscal year. The Agency plans to have all FOIA professionals attend at least one DOJ and/or OGIS training during the year. If additional FOIA professionals are hired in the FOIA Branch, the Agency will utilize the NLRB FOIA Manual and, depending on their FOIA experience, the Agency plans on enrolling those professionals in the DOJ two-day training, The Freedom of Information Act for Attorneys and Access Professionals.

Outreach:

6. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA?

Yes. Several members of the FOIA Branch attended outreach activities hosted by OIP.

7. If you did not conduct any outreach during the reporting period, please describe why? N/A

Discretionary Releases:

8. Does your agency have a distinct process or system in place to review records for discretionary release? Yes

The Agency continues its efforts of reviewing documents for discretionary disclosure. The FOIA professionals regularly meet with the Chief FOIA Officer concerning specific documents and categories of documents for proactive release under FOIA Exemption 5.

The Agency regularly posts Advice Memorandums, many of which contain Exemption 5 material, after considering whether there is no foreseeable harm in their release.

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

Yes

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

Exemption 5

11. 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.

The Agency continued to post on its website internal memoranda that provide case handling and policy guidance and thus are covered by FOIA Exemption 5. These memoranda include the following: General Counsel Memoranda, which are issued to the regional offices by the General Counsel to provide policy guidance; Division of Operations-Management Memoranda, which are issued to the regional offices by the Division of Operations-Management to provide case handling guidance; and Division of Advice Memoranda, which render substantive legal advice to the regional offices in cases presenting novel or complex issues, cases of national interest, or cases that involve developing and changing areas of the law.

In addition to these memoranda, the Agency disclosed as a matter of discretion other documents including emails, information about processing of closed investigations, and internal training materials.

12. If your agency was not able to make any discretionary releases of information, please explain why. N/A - discretionary releases were made.

Other Initiatives:

13. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA?

The FOIA Branch made a presentation as part of Orientation Week for new Board Members. Discussion involved general FOIA principles, recent significant FOIA requests, and FOIA issues of special interest to Board Members. At the Agency's Field Managers Conference, the FOIA Officer and FOIA Staff Attorney participated in a panel presentation to high level regional office personnel and discussed plans for centralization of FOIA to Headquarters. In addition, as part of the Orientation Program for Summer Law Students, the FOIA Officer made several presentations about general FOIA law as well as types of FOIA requests received by the NLRB.

14. 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 NLRB's Office of Congressional and Public Affairs has continued its efforts in utilizing e-mail and social media, enabling the Agency to disseminate information to the public through a variety of forums and reaching audiences who might not otherwise visit the Agency's public website. The Office of Congressional and Public Affairs has been increasingly proactive in releasing information to the public about activities in the field and at headquarters through press

releases. These press releases go out to 30,459 individuals. The NLRB also has 15,077 e-mail subscribers receiving summaries of case decisions with links to the decisions and 13,280 Facebook fans. In addition, the NLRB has a Twitter account with 11,398 followers. Further, each regional office has its own page on NLRB.gov, and regions are encouraged to continue adding new information in real time relevant to their region.

The Agency continues its efforts in making its re-designed website more user- friendly by improving the organization of the site, simplifying content, making case searches easier, and providing an increasing number of case documents.

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

Personnel:

1. In the [2014 Chief FOIA Officer Report Guidelines](#), OIP asked agencies about the status of converting all eligible FOIA professionals to the new Government Information Series. If your agency reported that its staff was eligible for conversion but had not yet converted all professionals to the new series, what is the current proportion of personnel that have been converted? N/A

2. If your agency has not converted all of its eligible employees yet, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

With the process of centralizing the Agency's FOIA functions underway, the NLRB's Office of Human Resources and Division of Legal Counsel have created position descriptions for non-attorney FOIA Specialists. The FOIA Branch has hired three FOIA Specialists during this reporting period and they are in the GS 0301 series. The FOIA Branch Attorney Advisers are in the excepted service in the GS 0905 series.

Processing Procedures:

3. For Fiscal Year 2014, what was the average number of days your agency reported for adjudicating requests for expedited processing? 4 days

4. 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

5. If your agency has a decentralized FOIA process, has your agency taken steps to make the

routing of misdirected requests within your agency more efficient? N/A

If your agency is already handling the routing of misdirected requests in an efficient manner, please note that here and describe your process for these requests.

The Agency uses an internally created FOIA tracking program, the FOIA Tracking System (FTS), which allows for the electronic storing, tracking, processing, and reporting of requests. The FTS document storing and report capabilities allow for timely routing of requests and monitoring of FOIA processing ensuring proper and timely responses to FOIA requests.

Requester Services:

7. 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

8. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? Yes. The NLRB provides an explanation of the amount of fees attributable to search, review, and duplication. Specifically, the NLRB provides the number of pages that have been duplicated. The NLRB does not separate hours for search and review.

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

ther Initiatives:

10. 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 discussed above, the NLRB utilizes the FOIA Tracking System (FTS), for the electronic tracking, processing, and reporting of both initial requests and administrative appeals. The FTS report capabilities allow for monitoring of FOIA processing, ensuring proper and timely responses to FOIA requests. The Agency continues its longstanding practice of timely responding to FOIA requests, and, in Fiscal Year 2014, the NLRB responded to requests in an average of six days.

In furtherance of facilitating greater efficiency, the Agency is continuing the process of centralizing the processing of all FOIA requests, including those filed in regional offices, in headquarters.

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? Yes

If so, please describe your agency's process or system. The NLRB FOIA professionals regularly meet with the FOIA Officer to discuss documents for proactive disclosure.

2. Does your process or system involve any collaboration with agency staff outside the FOIA office? Yes. The FOIA Branch meets with senior Agency officials, including the Office of the Chief Information Officer (OCIO) and the Office of Congressional and Public Affairs (OPA) regularly to identify documents for proactive disclosure and posting online.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online. As discussed above, the FOIA Branch works with OCIO and other offices to post frequently requested documents on the Agency's website. These documents are identified by examining the FOIA log and the NLRB's FOIA Tracking System.

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

- Developed a new "Organizations of Interest" page, to present lists of cases involving organizations that are of interest to the public. See: <http://www.nlr.gov/cases-decisions/organizations-interest>

Other Initiatives:

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

Section IV: Steps Taken to Greater Utilize Technology

Online Tracking of FOIA Requests and Appeals:

1. Can a member of the public track the status of his or her request or appeal electronically? No

2. If yes, how is this tracking feature provided to the public? For example, is it being done

through the regular posting of status logs, an online portal, or through another medium? N/A - no tracking system for requester.

3. If your agency does provide online tracking, please describe the information that is provided to the requester through this feature. For example, some online tracking features may tell the requester whether the request is "open" or "closed," while others will provide further details throughout the course of the processing, such as "search commenced" or "documents currently in review." N/A - no tracking system for requester.

4. If your agency does provide online tracking for requesters, does this feature also provide an estimated date of completion? N/A - no tracking system for requester.

5. If your agency does not provide online tracking of requests or appeals, is your agency taking steps to establish this capability? If not, please explain why? Yes. In 2015, the Agency plans to continue its efforts in conducting market research and to procure a cloud-based or shared service solution that would provide FOIA requesters with the ability to track the status of their request.

Making Material Posted Online More Useful:

6. 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? Yes

7. If yes, please provide examples of such improvements.

The Agency previously posted dynamic "Case Pages" on its public website, which allow the public to view activity for any NLRB case, with direct links to available public documents. In the last year, the Agency reviewed its document categories and made available 142 additional document types on these Case Pages. The Agency now provides direct links to 483 document types on its website. For an example of a case page, see: <http://www.nlr.gov/case/01-CA-137863>.

Also, the Agency provides a feedback form on the website for individuals to address any difficulties with navigation of the site or other technical issues or questions, comments and suggestions. See: <http://www.nlr.gov/resources/site-feedback>.

In addition, to make the posted information more useful to the public, the Agency publishes a weekly summary of Board decisions with a link to the decision. See: <http://www.nlr.gov/cases-decisions/weekly-summaries-decisions>.

Additional public website enhancements made during the last year to provide useful and usable information to the public include:

- Revised Case Search to include faceting, which categorizes search results and allows the public to further refine these results.
- Developed a new “Organizations of Interest” page, to present lists of cases involving organizations that are of interest to the public.
- Added search capability to the “Weekly Summaries of Decisions” to allow members of the public to more easily find what they are seeking.
- Launched a page that lists contested cases in which one or more recess appointees participated in the issuance of a decision, and which provides links to the case page for each case.
- Created a site that focuses on Section 10(j) of the National Labor Relations Act to provide more awareness of the legal actions taken by the Board to protect employee rights.

8. Have your agency’s FOIA professionals interacted with other agency staff (such as technology specialists or public affairs or communications professionals) in order to identify if there are any new ways to post agency information online?

Members of the Office of the Chief Information Officer (OCIO) – which includes the privacy section, staff from the Office of Congressional and Public Affairs (OPA), and the Agency’s FOIA professionals interact regularly to identify if there are any new ways, or new information, to post online. A primary example is their attendance at Docketing Committee meetings, wherein decisions are made regarding information posted on the website’s Case Pages. The Agency’s OCIO-based Data Coordinator also directly supports FOIA and OPA in their interactions with constituents and Congress.

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

The Agency regularly uses Twitter, Facebook, YouTube, email distribution lists and web postings to highlight important documents, cases and news items. News releases are issued in cases of national and regional significance, and to announce initiatives of the Agency, often with links to documents. In addition, the Agency regularly evaluates the effectiveness of the website and produces new features and pages to highlight its activities.

10. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? Yes

11. If so, please briefly explain what those challenges are. N/A

Use of Technology to Facilitate Processing of Requests:

12. 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? If yes, describe the technological improvements being made.

For FOIA requests that can be processed electronically, our FOIA Attorneys and FOIA Specialists use electronic software program to handle large, complex FOIA requests. This program has been used for the collection, review, and processing of documents. This software can also sort and de-duplicate documents.

13. Are there additional tools that could be utilized by your agency to create further efficiencies?

Since the official record in NLRB cases is electronic, tools that ensure data integrity and complete records would greatly assist the FOIA Branch in processing FOIA requests.

Other Initiatives:

14. Did your agency successfully post all four quarterly reports for Fiscal Year 2014? Yes

15. 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

16. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible? Yes

If yes, what are the different types of electronic means are utilized by your agency to communicate with requesters?

E-FOIA requests mailbox, email, and fax

17. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? N/A

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

Simple Track:

1. Does your agency utilize a separate track for simple requests? No
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? N/A. As noted below, the average was fewer than 20 days.
3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track. N/A
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? Yes

Backlogs:

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?

No. The number of backlogged requests for Fiscal year 2013 was 5 and the number of backlogged cases in Fiscal Year 2014 was 5.

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

The increase in backlogged requests was due to an increase in complexity and/or the amount of potential responsive documents of a few requests that were received in 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.
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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? N/A
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. N/A

Backlog Reduction Plans:

9. In the 2014 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2013 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? N/A

10. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2014, what is your agency's plan to reduce this backlog during Fiscal Year 2015? N/A

Status of Ten Oldest Requests, Appeals, and Consultations:

TEN OLDEST REQUESTS

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

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 2013 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? No requests were closed because the request was withdrawn. **TEN OLDEST APPEALS**

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

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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that. N/A

TEN OLDEST CONSULTATIONS

16. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report? N/A – no consultations

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 2013 Annual FOIA Report. N/A

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 2013. 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 2015. N/A

Interim Responses:

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

22. If your agency had a backlog in Fiscal Year 2014, 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.

Interim responses were provided in thirty percent of the backlogged cases.

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? No

If so, please provide the total number of times exclusions were invoked. N/A

Success Story

Out of all the activities undertaken by your agency since March 2014 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas.

- One of the major successes for the National Labor Relations Board has been its on-going efforts to centralize its FOIA program throughout the Agency. The goal is to increase quality and consistency of FOIA responses nationwide. The Agency has made a commitment to expand the professional and clerical staff and to ensure adequate training of the staff. To help insure the success of the FOIA centralization, the FOIA Branch has expanded from a staff of 4 FOIA attorneys to include 6 attorneys and 3 FOIA Specialists.
- The NLRB continues to maintain an effective FOIA program resulting in an average FOIA processing time well below the 20-day statutory time period.