2017 Chief FOIA Officer Report

NATIONAL LABOR RELATIONS BOARD

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Division of Legal Counsel
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Section 1: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the DOJ's 2009 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. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

A. 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?

    Answer: Yes, see below.

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

    Answer: The NLRB FOIA Branch hosted a three-day FOIA Summit, which included lectures on FOIA procedures, recent court decisions, fee waivers, and procedures for responding to FOIA appeals. Presentations by the NLRB Librarian, the Lead Technology Counsel, the Associate Chief Information Officer and Operations Division Assistant General Counsel provided the FOIA Branch with helpful information to conduct proper searches. Meetings with the General Counsel, Deputy General Counsel, Chief FOIA Officer, and the FOIA Officer furnished the opportunity for lively FOIA policy discussions. The Mediation Team Lead from the Office of the Government Information Services (OGIS) conducted a dispute resolution training specifically designed for the NLRB FOIA Branch.

    The FOIA Officer also conducts monthly meetings for the FOIA Branch during which the staff discusses processing FOIA requests, new case law, and FOIA policy updates.

    The NLRB FOIA Branch has uploaded the DOJ FOIA Professional e-Learning Module and the Federal Employee e-Learning Module onto the NLRB e-Learning platform, which is accessed through the Agency's internal web site. The majority of the FOIA Branch staff has

reviewed these modules. In addition, Agency employees who are temporarily detailed to the FOIA Branch are encouraged to review these modules.

Members of the NLRB FOIA Branch staff also attended the following trainings:

- *DOJ OIP Training: The Freedom of Information Act for Attorneys and Access Professionals*
- *DOJ OIP Training: Advanced Freedom of Information Act*
- *DOJ OIP Training: Continuing FOIA Education*
- *DOJ OIP Training: FOIA Processing Workshop*
- *DOJ OIP Training: 2016 FOIA Amendments Training*
- *DOJ OIP Training: Fiscal Year 2016 Annual Report*
- *DOJ OIP Training: 2017 Chief FOIA Officer Report*
- *DOJ OIP and OGIS: FOIA Public Liaison and FOIA Requester Service Center Training*
- *DOJ Privacy Forum*
- *American Society of Access Professionals (ASAP) 9th National Training Conference*
- *OGIS and DOJ OIP Training: Dispute Resolution Skills Training for FOIA Professionals*
- *FOIAXpress User Conference & Technology Summit*
- *American Bar Association webinar: FOIA 101: Understanding the Freedom of Information Act*

The FOIA Branch Deputy Assistant General Counsel assisted OGIS by presenting sessions at the fall 2015 and spring 2016 *Dispute Resolution Skills Training for FOIA Professionals*.

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

   Answer: 100% of NLRB FOIA Branch attended FOIA training.

4. 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.

   Answer: This is not applicable to the NLRB. The NLRB FOIA Officer promotes training to ensure the FOIA Branch has the proper skills and tools to perform its work.

B. Outreach

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

   Answer: Two FOIA Branch attorneys presented a CLE webinar entitled *Privacy and Proprietary Interests Under FOIA: Exemptions and the Submitter Process* for the ABA

Government and Public Sector Lawyers Division. The presenters discussed, in detail, FOIA Exemptions 4, 6, 7C, and 7D; the Trade Secrets Act; and the business submitter process. The participants included private sector attorneys, state and local government attorneys, and requesters.

A FOIA Attorney organized and moderated a panel entitled *To Centralize or Not? A Central Question for FOIA Programs* for ASAP 9th Annual National Training Conference. The panelists included the Deputy Assistant General Counsel from the National Labor Relations Board FOIA Branch, and the FOIA Officers from the U.S. Department of Agriculture and U.S. Department of Energy. The panel participants discussed the pros and cons of FOIA centralization and decentralization.

A FOIA Specialist gave a presentation to the requester community, consisting of San Juan, Puerto Rico-based union representatives, on the NLRB FOIA process and the vast amount of information publicly available on the NLRB website. The presentation was the first one that the FOIA Branch had conducted in Spanish.

The NLRB FOIA Branch staff attended the following outreach events with the requester community:

- *DOJ OIP Conference: FOIA IT Working Group Sunshine Week Meeting*
- *DOJ FOIA Requester Roundtable Meeting: Agency FOIA Websites*
- *DOJ OIP Best Practices Workshop Series: Reducing Backlogs and Improving Timeliness*
- *DOJ OIP Best Practices Workshop Series: FOIA Training Programs*
- *2016 OGIS Sunshine Week event with speakers celebrating FOIA's 50th Anniversary*

6. If you did not conduct any outreach during the reporting period, please describe why.

   Answer: This is not applicable to the NLRB.

C. Other Initiatives

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

   Answer: The NLRB FOIA Branch sought to raise awareness within the Agency of its centralized FOIA processes and FOIA responsibilities. The FOIA Officer launched these efforts with a Sunshine Week Agency-wide memorandum, advising Agency employees of FOIA training opportunities (including a link to the Federal Employee e-Learning Module on the NLRB e-Learning platform) and the Agency's FOIA activities.

   While the Agency recently centralized its FOIA processing to headquarters, staff in its regional offices across the country has continued to post certain dismissal letters with redactions. To ensure greater consistency with the FOIA Branch's redaction policies, the FOIA Branch prepared redaction instructions for the dismissal letters under the FOIA and the NLRB's policies.

The FOIA Branch has also taken opportunities to promote FOIA awareness to new and current Agency employees through trainings. The FOIA Branch conducted FOIA overview presentations to newly hired attorneys, summer law interns, employees temporarily detailed to the FOIA Branch, and regional staff visiting headquarters as a part of the NLRB Washington Exchange Program. These trainings provide updated information about their FOIA obligations as they perform the Agency's mission-related activities.

8. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

Answer: The FOIA Branch has engaged various Agency offices, including the Office of Congressional and Public Affairs (OCPA) and the Office of the Chief Information Officer (OCIO), on proactive disclosures efforts. The FOIA Branch and OCPA agreed to share information on disclosures to media requesters as responses are sent and are posted to the NLRB web site. OCPA issues press releases to over 29,936 individuals. In addition, the NLRB has 9,785 Twitter followers and 16,241 Facebook followers. Through these outlets, the OCPA has continued proactively releasing information to the public about activities in the regional offices and at the NLRB headquarters. 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.

In addition, beginning in December 2016, the FOIA Branch, along with a five-member OCIO Web Team, took on the task of updating and posting records to the NLRB's Frequently Requested Records web page. Since that time, the FOIA Branch and OCIO have held weekly meetings on how the Agency could more efficiently post frequently requested records to the Agency's web page and post records sought by requesters that seek the same records on a monthly basis. The FOIA Branch developed a process for tracking the records' posting progress. On December 23, 2016, the NLRB went live with its updated Frequently Requested Records web page. The FOIA Branch, OCIO Web Team, and OCPA continue to collaborate to post frequently requested records to this web page. In February 2017, the FOIA Branch will begin posting FOIA records responsive to requesters that seek the same record on a regular, monthly basis. The FOIA Branch anticipates that the updates to the NLRB's Frequently Requested Records web page will significantly reduce the number of FOIA requests and enable the FOIA Branch to shift their efforts to backlog reduction.

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

The DOJ's 2009 FOIA Guidelines emphasized that "[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 the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

A. Processing Procedures

1. For Fiscal Year 2016, 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 2016 Annual FOIA Report.

    Answer: For Fiscal Year 2016, the NLRB adjudicated FOIA requests for expedited processing in an average of 11 days.

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.

    Answer: The NLRB FOIA Branch has updated the administrative process to flag requests at the intake stage for expedited processing for priority treatment.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

    Answer: Currently, the FOIA Branch uses a proprietary FOIA casehandling system. In spring 2016, the FOIA Branch and the Office of the Chief Information Officer (OCIO) staff began holding bi-weekly meetings on identifying and addressing the technical needs of the FOIA Branch in processing FOIA cases. The FOIA Branch prepared a list of technical needs that were necessary to make electronic FOIA casehandling more efficient. OCIO personnel has now implemented a number of enhancements, including automatic folder creation for electronically-filed FOIA requests, automatic acknowledgement communications to requesters that e-filed requests, and a more efficient login process for end users. In addition, the FOIA Staff developed a Standard Operating Procedures (SOP) manual to achieve greater efficiency and consistency in the overall casehandling, and continues to discuss and update written policies for redaction of specific information. As a result, the FOIA Branch was able to move to a fully electronic casehandling process for FOIA requests.

4. Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters. If your agency is decentralized, please identify any components within your agency that received a majority of their requests from commercial use requesters.

    Answer: In Fiscal Year 2016, the NLRB processed approximately 2,185 FOIA requests from commercial use requesters.

B. Requester Services

5. Does your agency provide a mechanism for requesters to provide feedback about their experience with the FOIA process at your agency? If so, please describe the methods used, such as making the FOIA Public Liaison available to receive feedback, using surveys posted on the agency's website, etc.

   Answer: The NLRB response letters encourage feedback and contain the email address and telephone number for the FOIA Professional handling the request, the FOIA Supervisor, and the FOIA Public Liaison. The NLRB FOIA Public Liaison web page encourages feedback from requesters. The FOIA Officer and the FOIA Public Liaison contact information is available at https://www.nlrb.gov/news-outreach/foia/nlrb-foia-public-service-centersliaisons. The NLRB FOIA Public Liaison web page is inserted below.

6. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison.

   Answer: The NLRB estimates the FOIA Public Liaison assisted approximately 120 requesters in Fiscal Year 2016.

7. The FOIA Improvement Act of 2016 requires agencies to make their reference material or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.

   Answer: The NLRB FOIA Reference Guide is available at https://www.nlrb.gov/news-outreach/foia/foia-reference-guide.

C. Other Initiatives

8. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc., please describe them here.

   Answer: Since spring 2016, the FOIA Branch has met with OCIO on a bi-weekly basis to discuss and implement improvements to the Agency's proprietary FOIA casehandling system. OCIO has made a number of tools available to the FOIA Branch, including embedded Excel data queries to analyze data for FOIA requests and appeals. In May 2016, the FOIA Branch made its cradle-to-grave casehandling process fully electronic. The FOIA Branch developed a SOP manual for administrative staff and FOIA professionals on how to process cases electronically through the Agency's proprietary FOIA casehandling system. Email notifications for electronically-filed FOIA requests are now generated automatically. Staff conducted several training sessions on the new electronic procedures, including the intake process for new FOIA requests. Staff created a new Excel casehandling log. In addition, the FOIA staff performed a major "data cleanup" to close backlogged cases and to ensure data integrity. From the bi-weekly meetings and technology enhancements, the FOIA Branch and the OCIO staff have decided to investigate software alternatives to the Agency's proprietary FOIA casehandling system. As a part of that effort, the FOIA staff has been conducting surveys of end users at other agencies on their FOIA software experiences.

   The FOIA Branch has held a number of trainings on technology tools. These include trainings on the use of Relativity in processing large FOIA requests, as well as on effective uses of Adobe and Excel to increase FOIA casehandling efficiencies. Most recently, the FOIA Officer created a new program called "Brain Dates" in which a staff member leads an informal talk with up to four staff members about a topic of interest. The small size encourages more open and comprehensive discussion. The Brain Date sponsor records the sessions so that other staff can view the Brain Date at their convenience. These training opportunities have allowed staff to share in their timesaving tips in FOIA casehandling and contributed to the Branch's success in attaining a 54.51% reduction in the FOIA case backlog from the previous fiscal year.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President's and DOJ's FOIA memoranda 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. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

A. Posting Material

1. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

   Answer: FOIA managers use an embedded data Excel query to search for records requested multiple times. In addition, the FOIA Branch works with the Agency's Office of Congressional and Public Affairs to identify records from cases of great media interest. When a FOIA staff member discerns that certain records are of great interest to multiple requesters, they alert their managers that a record should be posted. FOIA managers track the identification and posting of frequently requested records in an electronic Excel log to assist staff in directing requesters to our Frequently Requested Records page for records that are publicly available.

2. Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency's process or system.

   Answer: Once a staff member of the FOIA Branch or OCPA identifies a record of significant interest, the FOIA staff collaborates with OCIO staff and the NLRB Web Team to post those redacted records to the NLRB's case web page. FOIA staff tracks the progress of the posting on the NLRB's case web page and the NLRB's Frequently Requested Records web page on an Excel spreadsheet. The staff further uses the spreadsheet to advise requesters if the FOIA Branch has already proactively disclosed records. The Agency's Web Team then links the redacted record's NLRB case web page to the NLRB's Frequently Requested Records web page.

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

   Answer: The NLRB has limited personnel and resources to physically post records on the NLRB website.

4. If so, briefly explain those challenges and how your agency is working to overcome them.

   Answer: To overcome this challenge, NLRB is moving to obtain FOIAonline as the FOIA case management system barring unanticipated changes in the budget. With FOIAonline, the FOIA Branch will have the ability to post responsive records online.

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

   Answer: The NLRB has updated the NLRB Frequently Requested Records web page and made several proactive disclosures. The NLRB Frequently Requested Records web page is

located at https://www.nlrb.gov/news-outreach/foia/frequently-requested-records. On the NLRB Frequently Requested Records web page, there are links to new web pages: 1) Cases and Organizations of Interest, and 2) Representation Petitions and Certifications / Unfair Labor Practice Charges and Dismissal Letters.

The Cases and Organizations of Interest web page, which is located at https://www.nlrb.gov/cases-decisions/organizations-interest, provides links to the case pages where documents about each case may be found.

The main link for the various organizations' case records, which were posted on the Cases and Organizations of Interest web page within the last year, are:

- Bridgewater Associates
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Bridgewater Associates"

- Columbia University
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Columbia University"

- Google
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Google"

- Harvard College
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Harvard College"

- Lyft Inc
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Lyft Inc"

- Menard, Inc
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Menard, Inc"

- National Football League
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="National Football League"

- Northwestern University
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Northwestern University"

- Postmates, Inc
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Postmates, Inc"

- The New School
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="The New School"

- Trump Companies
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Trump Companies"

- Yale University
  https://www.nlrb.gov/cases-decisions/organizations-interest?organization="Yale University"

The NLRB received several monthly requests for the twenty-six Regional Offices' Representation Petitions and Certifications in RD, RM, & RC cases and Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, & CE cases. On February 17, 2017, the NLRB began posting the January 2017 records online at: https://www.nlrb.gov/region-monthly-uploads.

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Representation Petitions and Certifications / Unfair Labor Practice Charges and Dismissal Letters

This page contains Representation Petitions and Certifications in RD, RM, & RC cases as well as Unfair Labor Practice Charges and Dismissal Letters in CB, CC, CD, CP, CG, & CE cases. The documents are organized by document type, region, and date.

Note: Records for certain NLRB offices are grouped together as follows:

1. **Region 1**: Boston, MA Regional Office and Hartford, CT Subregional Office
2. **Region 10**: Atlanta, GA Regional Office, Birmingham, AL Subregional Office, and Nashville, TN Resident Office.
3. **Region 15**: New Orleans, LA Regional Office, Memphis, TN Subregional Office, and Little Rock, AR Resident Office
4. **Region 12**: Tampa FL Regional Office, Hato Rey, PR Subregional Office, and Miami, FL Resident Office.
5. **Region 14**: St. Louis, MO Regional Office, Overland Park, KS Subregional Office, and Tulsa, OK Resident Office.
6. **Region 18**: Minneapolis, MN Regional Office and Milwaukee, WI Subregional Office.
7. **Region 19**: Seattle, WA Regional Office and Portland, OR Subregional Office
8. **Region 20**: San Francisco, CA Regional Office and Honolulu, HI Subregional Office
9. **Region 25**: Indianapolis, IN Regional Office and Peoria, IL Subregional Office

Region   Year Month   Document Type (Select One)
[All ▾]   [2017 ▾][Jan ▾] [All   ▾] [Apply]
Select any item from dropdown and click on Apply to see results.

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

    Answer: Yes. The NLRB is planning to issue a press release and use social media to introduce the new Representation Petitions and Certifications / Unfair Labor Practice Charges and Dismissal Letters web page. For other means of highlighting proactive disclosures, see the response in Section I. C. 8.

B. Other Initiatives

7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example, has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your proactive disclosures?

    Answer: In July 2016, the FOIA Branch met with the Agency's OCIO to discuss the redesign of the NLRB home page and to revisit the FOIA Branch's Frequently Requested Records web page. On December 23, 2016, the updated Frequently Requested Records web page went live with records from high profile NLRB cases. The FOIA Branch has been able to refer requesters to this page for these requests. Based on Google Web analytics, the FOIA Branch determined that web users went to the main page and performed a search 3,427 times. Actual web site visits were 1,923.

<u>*Section IV: Steps Taken to Greater Utilize Technology*</u>

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. You should also include any additional information that that describes your agency's efforts in this area.

A. 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?

    Answer: Yes, see response below.

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

    Answer: In addition to the response in Section III. B. 7. above, FOIA staff has contacted our repeat requesters and guided them through our web site to show them how to obtain open format data on NLRB cases from our web site. These requesters can download the data in CSV format.

3. 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?

    Answer: The FOIA Branch regularly coordinates with the OCIO and OCPA to disclose records of significant interest to the public.

B. Use of Technology to Facilitate Processing of Requests

4. Did your agency conduct training for FOIA staff on any new processing tools during the reporting period, such as for a new case management system, or for search, redaction, or other processing tools?

    Answer: See the response in Section II. C. 8.

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? If yes please describe:

    - The technological improvements being made.
    - The impact of using these technologies on your agency's request processing.

Answer: The FOIA Branch uses Relativity to process large FOIA requests. This software package allows for efficient de-duplication of email threads and other electronic records. It also allows staff to redact records in their native file format, and permits multiple users to work on a case simultaneously.

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

   Answer: The FOIA Branch staff has investigated the use of alternative FOIA casehandling software systems. It currently uses Office 365 E-discovery tool to search for email records and the NLRB's case query tool in its proprietary case handling system to search NLRB records.

C. Other Initiatives

7. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?

   Answer: Yes, the NLRB successfully posted the four quarterly reports for Fiscal Year 2016. The reports are available on the FOIA.gov website at: https://www.foia.gov/quarter.html?NLRB and on the NLRB website at: https://www.nlrb.gov/reports-guidance/reports/foia-quarterly-reports.

8. 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 2017.

   Answer: This is not applicable to the NLRB.

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

The President's FOIA Memorandum and the DOJ's 2009 FOIA Guidelines 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 2016 Annual FOIA Report and, when applicable, your agency's 2015 Annual FOIA Report.

A. 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?

    Answer: No. The NLRB does not have a separate track for simple requests. However, the FOIA Branch manually reviews each FOIA request and makes an effort to process the simple requests first.

2. If so, for your agency overall in Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?

    Answer: This is not applicable to the NLRB because the Agency does not have a separate track for simple requests.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track.

    Answer: This is not applicable to the NLRB because the Agency does not have a separate track for simple requests.

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?

    Answer: The average number of days to process all non-expedited requests was over twenty working days.

B. 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 2015 and Fiscal Year 2016 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 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce its backlog.

    Answer: The NLRB had a FOIA request backlog of 266 at the end of Fiscal Year 2015. At the end of Fiscal Year 2016, the NLRB had a FOIA request backlog of 121, which reflects a backlog reduction of 54.51%.

6. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming requests.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: This is not applicable to the NLRB because the Agency reduced the backlog by 54.51%.

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 2016.

Answer: The NLRB received 2,679 requests during Fiscal Year 2016. The total Fiscal Year 2016 backlog was 121, which is the equivalent to 4.5% of the total requests received.

BACKLOGGED APPEALS

8. If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the causes that contributed to your agency not being able reduce backlog.

Answer: Yes. The NLRB had an Administrative Appeal backlog of one at the end of Fiscal Year 2015. At the end of Fiscal Year 2016, the NLRB did not have an Administrative Appeal backlog.

9. If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

- An increase in the number of incoming appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

Answer: This is not applicable to the NLRB.

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 2016. If your agency did not receive any appeals in Fiscal Year 2016 and/or has no appeal backlog, please answer with "N/A."

Answer: This is not applicable to the NLRB.

C. Backlog Reduction Plans

11. In the 2016 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2015 was asked to provide a plan for achieving backlog reduction in the year ahead. Did you agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2016?

Answer: The FOIA Branch took the following steps to reduce backlog:

- Proactively disclosed records on the Agency website;
- Created an electronic processing system, eliminating paper files;
- Created an SOP for the electronic processing system and trained staff on the SOP;
- Authorized compensation time for the FOIA Branch staff members;
- Created a new FOIA Supervisor position;
- Obtained one full-time attorney and one part-time attorney for a 90-day period detail;
- Requested a new FOIA case tracking system;
- Provided training for FOIA Branch staff and encouraged FOIA Branch staff to attend DOJ and OGIS training sessions; and
- Requested additional personnel and requested personnel for vacant positions.

12. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2016, what is your agency's plan to reduce this backlog during Fiscal Year 2017?

Answer: This is not applicable to the NLRB.

D. 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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

13. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

Answer: The NLRB is pleased to report that it closed the ten oldest FOIA requests.

14. 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 2015 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: This is not applicable to the NLRB.

15. 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?

Answer: The FOIA Branch closed seven of the ten requests because the requesters withdrew them. The FOIA Branch did not provide an interim response.

TEN OLDEST APPEALS

16. In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

Answer: For the Fiscal Year 2015 Annual FOIA Report, the NLRB reported only three old administrative appeals. The NLRB is pleased to report that it closed these three administrative appeals in Fiscal Year 2016.

17. 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 2015 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: This is not applicable to the NLRB.

TEN OLDEST CONSULTATIONS

18. In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?

Answer: Yes. For the Fiscal Year 2015 Annual FOIA Report, the NLRB reported one old consultation. The NLRB closed this consultation in Fiscal Year 2016.

19. 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 2015 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

Answer: This is not applicable to the NLRB.

E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

20. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.

Answer: This is not applicable to the NLRB.

21. 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.

    Answer: This is not applicable to the NLRB.

22. 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 2017.

    Answer: This is not applicable to the NLRB.

F. Interim Responses

23. Does your agency have a system in place to provide interim responses to requesters when appropriate? *See OIP Guidance*, "The Importance of Good Communication with FOIA Requesters." (Mar. 1, 2010)

    Answer: Yes. The NLRB FOIA Branch has a process to provide requesters with interim responses when it is appropriate.

24. If your agency had a backlog in Fiscal Year 2016, 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.

    Answer: The NLRB FOIA Branch provided interim responses in approximately 5% of the backlogged cases.

G. Success Stories

Out of all the activities undertaken by your agency since March 2016 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. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

Answer: After implementing creative backlog techniques, the NLRB FOIA Branch reduced its FOIA request backlog by 54%.

The NLRB FOIA Branch created an electronic FOIA processing system, thus creating a paperless office.

The NLRB FOIA Branch has launched its Frequently Requested Records web page. Additionally, based upon comments from the requester community, the NLRB has updated the Agency website, making it more user-friendly and providing additional Agency records.

Our biggest success over the reporting period is the improved communication and working relationship between the FOIA Branch and the OCIO. The FOIA Branch achieved this success through many steps. First, senior Agency officials participated along with FOIA and OCIO management in technology meetings to identify technical needs and to implement resolutions of those concerns. Second, the OCIO and FOIA Branch met regularly to set FOIA casehandling goals and to ensure that these objectives were met. Through the course of the meetings, the OCIO staff was able to better understand the FOIA workflow processes and to develop more useful tools and technology enhancements. These enhancements greatly aided the FOIA Branch in becoming more efficient at casehandling.