

## **2022 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. Consistent with executive-branch guidance, the FLRA is committed to accountability and transparency. As part of the aim of achieving openness, the Office of Information and Privacy (“OIP”), Department of Justice (“DOJ”) issued guidelines for the 2022 Chief FOIA Officer Reports, requiring agencies to report on their FOIA activities. This report addresses the questions raised in the most recent guidance.

### **Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying DOJ’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. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

#### **A. FOIA Leadership**

- 1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. § 552(j)(1) (2018). Is your agency’s Chief FOIA Officer at this level?**

Yes.

- 2. Please provide the name and title of your agency’s Chief FOIA Officer.**

Noah Peters, Solicitor of the FLRA.

#### **B. FOIA Training**

- 3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.**

The FLRA had a training for all FOIA professionals that was held on December 2, 2021. The FLRA then circulated the power point presentation used during the training and a recording of the training to FLRA FOIA professionals.

4. **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?**

Yes.

5. **If yes, please provide a brief description of the type of training attended and the topics covered.**

The agency held an internal FOIA training session for personnel with FOIA responsibilities on December 2, 2021. This training included information on records subject to FOIA, searching for responsive records, FOIA exemptions, FOIA response times, responses to requesters, fees that may be charged for requests, and the appeal process available to requesters.

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

During the reporting period, approximately 81% of the agency's FOIA professionals and staff attended at least one substantive training.

7. **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.**

N/A.

8. **Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?**

Yes.

### C. Outreach

9. **Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.**

No.

## D. Other Initiatives

**10. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:**

- **how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and**
- **if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?**

In this past year, the Chief FOIA Officer and his direct subordinates briefed agency leadership about the overall performance of the FOIA program.

**11. Optional -- 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 agency periodically reviews its FOIA website to determine if there are additional materials beyond those covered by FOIA requests that are appropriate for posting. This past year, the agency continued to work with its partners at FOIAonline to determine ways to improve the public's ability to electronically access information, freeing up resources to allow the partner agencies to more efficiently handle other requests. Agency FOIA officers also periodically communicate with the agency's IT unit and other key agency personnel to determine if it is appropriate to post additional materials 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**

DOJ's FOIA Guidelines emphasize 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.

1. **For Fiscal Year 2021, 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 2021 Annual FOIA Report.**

The FLRA maintained an average of 9.88 days to adjudicate the requests it received for expedited processing.

2. **If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, 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. **The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?**

Yes. Please see: <https://go.usa.gov/xt2cv>.

4. **Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?**

The FLRA has SOPs for responding to FOIA requests and appeals, but they are not written.

5. **If not, please provide a timeline for when your agency plans to develop or update its SOPs.**

The FLRA will issue written SOPs in 2022.

6. **Has your agency established alternative means of access to first-party requested records outside of the FOIA process?**

Yes, individuals may submit a Privacy Act Request.

7. **If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.**

Instructions for submitting Privacy Act Requests are available both in the FLRA's regulations, *see* <https://go.usa.gov/xt2xA>, and on its website, *see* "Instructions for Submitting a Privacy Act Request" at <https://go.usa.gov/xt2xF>.

8. **Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.**

As a member agency using FOIAonline, FLRA FOIA professionals are in periodic contact throughout the year with the FOIAonline administrators looking for ways to streamline FOIA processing and to make it more efficient. Additionally, key members of the FLRA's FOIA staff periodically review incoming requests made throughout the country to ensure matters are properly processed and to work against incurring backlogs.

9. **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 the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2020 (please provide a total number or an estimate of the number).**

No requesters sought assistance from the FLRA's FOIA Public Liaison during FY 2021.

10. **Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?**

Yes.

**11. Please Optional -- Please describe:**

- **Best practices used to ensure that your FOIA system operates efficiently and effectively**
- **Any challenges your agency faces in this area**

As noted in the FLRA's 2020 Chief FOIA Officer Report, as a national coordinator for the agency's FOIAonline case-tracking system, the office of the Chief FOIA Officer has access to each agency FOIA processing unit's requests and processing information about these requests. The office of the Chief FOIA Officer regularly monitors the system to help ensure that all FOIA requests are handled in a uniform and timely manner. In addition, the FLRA's FOIA professionals have worked with its FOIAonline partners across the government to continually improve the case-tracking system.

**Section III: Steps Taken to Increase Proactive Disclosures**

The Department of Justice has long 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.

**1. Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.**

The Chief FOIA Officer and his staff respond to over 90% of the agency's FOIA requests and regularly review agency-wide FOIA responses. When the Chief FOIA Officer and his staff observe that a record has been requested and released three or more times, they ensure that the records are proactively disclosed.

**2. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.**

The agency routinely updates its website with the most recent FLRA, ALJ, and FSIP decisions and Office of the Solicitor briefs. This is a link to the agency's electronic reading room:

<http://www.flra.gov/elibrary>

The FLRA further added a page to its website that contains requests to the FLRA for policy statements, as well as the FLRA's decisions concerning those requests. A link to the page is available in the electronic reading room page and here:

<https://www.flra.gov/resources-training/resources/policy-statements>

The FLRA is also now issuing quarterly digests of FLRA Authority decisions, which are available at this link:

<https://www.flra.gov/decisions/quarterly-digest-authority-decisions>

- 3. Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.**

FLRA, ALJ, and FSIP decisions may be retrieved from databases on the FLRA's website using the following links:

FLRA Decisions: <https://www.flra.gov/decisions/authority-decisions>

ALJ Decisions: <https://www.flra.gov/decisions/alj-decisions>

FSIP Decisions: <https://www.flra.gov/decisions/fsip-decisions>

FLRA and FSIP decisions are also available on Westlaw.

- 4. 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?**

The agency holds periodic trainings for the public and issues press releases to disseminate significant information regarding agency. Through those communication channels the agency has obtained feedback about, among other things, the website content and presentation. The agency then decides which of the suggestions to implement.

- 5. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges. If yes, please provide examples of such improvements.**

The FLRA's core mission is to adjudicate labor-management disputes in the federal sector through the issuance of decisions and training. The agency continues to place its most recent decisions, training announcements, and news on the home page of the website. For example, the FLRA announced and updated information concerning key agency leadership, decisions, and quarterly digests of FLRA Authority decisions. The FLRA has also posted a mobile-friendly copy of its statute on line.

**6. Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.**

Yes, the Chief FOIA Officer and his staff communicate with FLRA leadership and the FLRA's Offices of Legislative Affairs & Program Planning and Information Technology about proactive disclosures.

**7. Optional -- Please describe:**

- **Best practices used to improve proactive disclosures**
- **Any challenges your agency faces in this area**

The Chief FOIA Officer and FOIA staff review the agency's FOIA web pages and work with key agency personnel to determine if there are additional materials beyond those covered by FOIA requests that are appropriate for posting.

Moreover, the agency maintains a variety of RSS newsfeeds that 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.

#### **Section IV: Steps Taken to Greater Utilize Technology**

A key component of FOIA administration is using technology to make information more accessible. 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.

**1. Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?**



Through its membership in FOIAonline, the FLRA in 2021 ensured that its FOIA-related technological capabilities complied with DOJ standards. In FY 2022, the FLRA will have to choose a new FOIA vendor.

- 2. Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.**

In FY 2021, through its partnership with FOIAonline, the FLRA ensured that its FOIA systems were compliant with the FOIA.gov Interoperability API requirements. FOIAonline data was also moved to the cloud.

- 3. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?**

Yes.

- 4. Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?**

Yes, the agency posted all of the required quarterly reports for Fiscal Year 2021 on its website at <https://www.fra.gov/elibrary> and on FOIA.gov.

- 5. 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 2022.**

N/A.

- 6. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.**

2020 – <https://www.fra.gov/elibrary>

2021 – <https://www.fra.gov/elibrary>

- 7. Optional -- Please describe:**

- **Best practices used in greater utilizing technology**
- **Any challenges your agency faces in this area**

As noted above and below, the FLRA has worked with its partners at FOIAonline to streamline and improve the performance of processing FOIA requests electronically. The FLRA will be vetting companies to replace FOIAonline's services in FY 2022.

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

The Department of Justice has 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 FY 2020 and 2021 Annual FOIA Reports.

**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?**

Yes.

**2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2021?**

Yes, the average number of days was fewer than 20 working days, the average was 8.09 working days.

**3. Please provide the percentage of requests processed by your agency in Fiscal Year 2021 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) divided by (requests processed from Section V.A.) x 100.**

71.3%

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.

## **B. Backlogs**

When answering these questions, please refer to your Fiscal Year 2021 Annual FOIA Report, Sections XII.D-E, which compare the numbers of requests and appeals received, processed, and backlogged between Fiscal Years 2020 and 2021.

### **BACKLOGGED REQUESTS**

5. **If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?**

The FLRA did not have a backlog of requests at the end of FY 2021.

6. **If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?**

N/A.

7. **If your agency's request backlog increased during Fiscal Year 2021, please 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.**
- **Impact of COVID-19 and workplace and safety precautions.**
- **Any other reasons – please briefly describe or provide examples when possible.**

N/A.

8. 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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."

N/A

## BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?

The FLRA did not have a backlog of administrative appeals at the close of FY 2021.

10. If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?

N/A.

11. If your agency's appeal backlog increased during Fiscal Year 2021, please 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.
- Impact of COVID-19 and workplace and safety precautions.
- Any other reasons – please briefly describe or provide examples when possible.

N/A.

12. 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 2021. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."

N/A.

### C. Backlog Reduction Plans

- 13. In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your 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 2021?**

N/A.

- 14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.**

N/A.

### D. Status of 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 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

#### OLDEST REQUESTS

- 15. In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?**

The FLRA had no pending perfected requests at the end of FY 2020.

- 16. 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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.**

N/A.

- 17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.**

The FLRA attempted to respond to requests in a timely manner.

#### **TEN OLDEST APPEALS**

- 18. In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2020 Annual FOIA Report?**

N/A. The agency had no pending appeals at the end of FY 2020.

- 19. 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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

N/A.

- 20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.**

The FLRA attempted to respond to appeals in a timely manner.

#### **TEN OLDEST CONSULTATIONS**

- 21. In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?**

The agency did not have any pending consultations as of the end of FY 2020.

- 22. 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 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.**

N/A.

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

- 23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.**

The FLRA had no outstanding requests, appeals, or consultations at the end of FY 2020.

- 24. 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.

- 25. 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 2022.**

N/A.

**F. Success Stories:**

- As in prior years, one of the major success stories for the agency continues to be the enhancements made to its website, which provides access to the most current decisions, a quarterly digest of FLRA Authority decisions, policy statements, program training, and information about all of the agency's activities.