

2016 Chief FOIA Officer Report for the U.S. Railroad Retirement Board (RRB)

The RRB submits this report for 2016 in response to the request in the United States Department of Justice Office of Information Policy FOIA Post, "*Agency 2016 FOIA Officer Report Guidelines*." The report has been prepared by Karl T. Blank, General Counsel/Chief FOIA Officer, RRB.

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

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?

Yes. The RRB is a small, independent agency in the Executive Branch of the Federal government. As the RRB's General Counsel/Chief FOIA Officer, I am responsible for the RRB's overall FOIA program. I have made certain that all FOIA staff are properly trained and refreshed annually as part of the agency's Privacy Awareness training. All FOIA staff are trained on the President's FOIA memorandum and the Attorney General's FOIA guidelines and are responsible in carrying out those responsibilities as they respond to all FOIA requests.

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

All RRB FOIA staff were trained and refreshed in the President's FOIA memorandum and the Attorney General's FOIA guidelines in FY 2015.

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

We continue to monitor our FOIA training opportunities annually and provide for the necessary training as required. FOIA personnel are advised of training opportunities conducted by the Department of Justice and well as other outside vendors.

Discretionary Releases:

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

Yes. FOIA staff review all records that are responsive to a particular FOIA request. When there is a possibility of making a discretionary release, they consult with the agency's General Counsel/Chief FOIA Officer to determine that all records that are withheld under an exemption are reviewed for discretionary release. We make it a policy that, whenever possible, all responsive records that could technically be withheld should be reviewed a second time for discretionary release.

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

The number of full grants to requests has continued to increase or remain steady since FY 2007 to the present, i.e., from 34 in FY 2007 to 105 in FY 2015. In FY 2008, the agency released 48 full grants and 5 partial grants. In FY 2009, the agency released 55 full grants and 15 partial grants. In FY 2010, the agency released 62 full grants and 4 partial grants. In FY 2011, the agency released 77 full grants and 3 partial grants. In 2012, the agency released 68 full grants and 7 partial grants. In 2013, the agency released 67 full grants and 7 partial grants. In FY 2014, the agency released 117 full grants and 1 partial grant. In FY 2015, the agency

released 107 full grants and 2 partial grants. The RRB did make discretionary releases during FY 2015. However, due to the nature of records requested, as well as the small number of FOIA requests that are received by the agency, only a small number were made. However, the RRB makes it a policy to make discretionary releases whenever possible.

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

Generally, when there is a possibility of a discretionary release being made by the RRB, exemption (b)(5) applies.

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

An example of a discretionary release by the RRB last year was release of certain travel records for the RRB's headquarters and field office locations.

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

Not applicable (N/A).

Other Initiatives:

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

FOIA staff review all records that are responsive to a particular FOIA request. When there is a possibility of making a discretionary release, they consult with the agency's General Counsel/ Chief FOIA Officer.

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

As the Attorney General emphasized in his FOIA Guidelines, "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would *like* to describe how your agency ensures that your FOIA system is efficient and effective.

Processing Procedures:

1. For Fiscal Year 2015, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

The RRB did not adjudicate any requests for expedited processing in Fiscal Year 2015.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A.

3. On July 2, 2015, OIP issued new guidance to agencies on the proper procedures to be used in the event an agency has a reason to inquire whether a requestor is still interested in the processing of his or her request. Please confirm here that to the extent your agency may have had occasion to send a "still interested" inquiry, it has done so in accordance

with the new guidelines for doing so, including affording requestors thirty working days to respond.

The RRB did not issue a "still interested" inquiry in Fiscal Year 2015.

Requester Services:

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

Yes. The RRB provides a full itemized breakdown of FOIA fees, including hourly and categorical breakdowns.

Other Initiatives:

5. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

We routinely review our entire FOIA processing system to identify any improvements and efficiencies which can be made.

Section III: Steps Taken to Increase Proactive Disclosures

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken both 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 disclosure of information.

Posting Material:

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

We routinely continue to review, analyze and improve our release of "frequently requested" record's consulting with agency administration, program, and operation bureaus with an emphasis on routine/recurring requests and website content identified through monitoring our agency FOIA logs and website. Below is current "frequently requested information" available on the Board's website without filing a FOIA request:

Frequently Requested Information Available Without Filing a FOIA Request

- Descriptions of agency organization
- Procedures for the public to obtain information
- Statements of agency function
- Rules of procedure
- Descriptions of agency forms
- Substantive rules of general applicability and statements of general policy
- Any changes in material required to be published
- Agency procedure manuals
- Final decisions of the three-member Board which heads the agency
- Rulings of the Board
- Legal opinions
- IMPAC Credit Card Holders List
- An inventory of the RRB's automated information systems
- How information is dispersed to other government agencies
- Privacy Act System of Records

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

The RRB annually updates its website to include current actuarial, statistical, and financial information concerning active and retired railroad employees, including actual railroad employment by month, historical data concerning benefits and beneficiaries, quarterly benefit statistics, and selected national and railroad data.

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

We are committed to making our electronic and information technologies accessible to individuals with disabilities by meeting or exceeding the requirements of Section 508. Our comprehensive approach to Section 508 compliance ensures people with disabilities have access which is comparable to those who do not have disabilities, and our commitment to accessibility includes content and online services provided through our website. Our Section 508 compliance is handled by the agency's Bureau of Information Services, therefore we are unable to report on time estimates.

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

No.

5. If so, please briefly describe those efforts.

N/A.

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

We continue to monitor FOIA webpage content to make sure it remains timely and consistent with current law. FOIA staff have the responsibility and authority to update the RRB website as necessary. The website offers

access to copies of the agency's procedure manuals, final decisions of the three-member Board which heads the agency, rulings of the Board and legal opinions. Other information is available to the public without filing a FOIA request in the Federal Register and the RRB Group Information Locator System (GILS) website. An example of additional material provided since the issuance of the new FOIA Guidelines include a more comprehensive list of the agency's procedural manuals. Additionally, five data sets of statistical information have been added to the RRB's Open Government Initiative located at <http://www.rrb.gov/open/default.asp>.

High-Value Data Sets:

Active Employees and Railroad Retirement Act Beneficiaries by State, 2008 <http://www.data.gov/details/1331>

Longevity of Railroad Retirement Beneficiaries <http://www.data.gov/details/1332>

Railroad Retirement Act Annuitants and Active Railroad Employees by Congressional District <http://www.data.gov/details/1330>

Total Number of Railroad Employees by State and Last Railroad Employer, 2007 <http://www.data.gov/details/455>

Total Railroad Employment by State and County, 2007 <http://www.data.gov/details/456>

Open Government Webpage www.rrb.gov/open

Freedom of Information Act Report Publishing www.rrb.gov/open)

Agency Plans, Management and Reports

http://www.rrb.gov/general/plan_rpt_inv.asp#fair

http://www.rrb.gov/mep/agency_mgt.asp

http://www.rrb.gov/opa/AnnualRprt/Ann_Rpt_toc.asp

Agency Procedure Manuals

http://www.rrb.gov/general/admin_manuals_index.asp

Board Coverage Decisions http://www.rrb.gov/blaw/bcd/cov_introduction.asp

Congressional Requests ola@rrb.gov

Federal Register <http://www.gpoaccess.gov/fr/index.html>
http://www.rrb.gov/irm/fedreg_notices.asp
http://www.rrb.gov/irm/fedreg_regs.asp

Financial, Actuarial and Statistical Data

http://www.rrb.gov/mep/fin_act_stat.asp

Forms and Publications

<http://www.rrb.gov/general/handbook/toc.asp>
http://www.rrb.gov/mep/ben_forms.asp
http://www.rrb.gov/mmo/rail_forms.asp

Freedom of Information Act (FOIA)

<http://www.rrb.gov/blaw/foia/foia.asp>

Information Dissemination

<http://www.rrb.gov/bis/section515/introduction.asp>
<http://www.rrb.gov/bis/section515/guidelines.asp>
<http://www.rrb.gov/bis/section515/correct.asp>

IMPAC Credit Card Holders List

<http://www.rrb.gov/general/impac.asp>

News Releases http://www.rrb.gov/mep/news_releases.asp

Privacy Act - Privacy Act Systems of Records

http://www.rrb.gov/bis/privacy_act/introduction.asp
http://www.rrb.gov/bis/privacy_act/SORNList.asp

Records Management http://www.rrb.gov/rrbvision/video_library.asp

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

The RRB utilized Really Simple Syndication (RSS) and E-mail Subscriptions to allow users to easily stay up-to-date with areas of the RRB's web site that are of interest and provide resultant feedback. The RRB did not utilize social media to publicize proactive disclosures.

Other Initiatives:

8. 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

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 describes your agency's efforts in this area.

Making Material Posted Online More Usable:

1. Beyond posting new material, is your agency taking steps to make posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes.

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

The RRB is currently in the process of digitizing, indexing, and cataloging 258 binders of Legal Opinions maintained in the Board's Office of General Counsel so they are electronically retrievable through www.rrb.gov by Board staff and the public, including attorneys, claimants, railroad employers, etc. See "*Spotlight on Success*" below.

Other Initiatives:

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

No.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2016.

Due to unexpected delays caused by other agency priorities, specifically pending litigation cases, in conjunction with significant staffing shortages during part of FY 2015, we were unable to comply with the quarterly reporting requirements. We plan to provide appropriate staffing and resources to achieve the quarterly reporting requirement in Fiscal Year 2016.

5. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters where feasible? See OIP Guidance, "*The Importance of Good Communication with FOIA Requesters 2.0: Improving Both the Means and the Content of Requester Communications*" (Nov. 22, 2013). If yes, what are the different types of electronic means which are utilized by your agency to communicate with requesters?

Yes. E-mail is utilized to communicate with requesters where feasible. The RRB is not currently using other social media, such as Twitter, Facebook, etc., to communicate with requesters.

6. If your agency does not communicate electronically with requests as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations? See *id.*

No.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals and consultations.

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

No.

2. If so, for your agency overall, for Fiscal Year 2015, was the average number of days to process simple requests twenty working days or fewer?

N/A.

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

Zero (0).

4. If your If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

No. The average number of days to process non-expedited requests was 30.44 days.

BACKLOGGED REQUESTS

5. If your agency had a backlog of requests at the close of Fiscal Year 2015, did that backlog decrease as compared with Fiscal Year 2014?

The number of backlogged requests reported by the RRB's Office of Inspector General (OIG) increased from 9 reported in FY 2014 to 10 in FY 2015.

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 – briefly describe or provide examples when possible.

The agency's Office of Inspector General states that that an increase in the complexity of the requests, voluminous document requests, and staffing issues have contributed to its request backlog.

7. If you had a request backlog, please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2015.

The percentage of requests that make up the backlog out of the total number of requests received by the RRB in FY 2015 is 8 percent.

BACKLOGGED APPEALS

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

No backlog of appeals was reported by the RRB in FY 2014 or FY 2015.

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

N/A.

10. If you had an appeal backlog, please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2015. If your agency did not receive any appeals in Fiscal Year 2015 and/or has no appeal backlog, please answer "N/A."

N/A.

TEN OLDEST REQUESTS

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

No.

12. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual FOIA Report. If you had less than the ten total oldest requests to close, please indicate that.

Four "ten total oldest requests" reported in FY 2014 were closed in FY 2015.

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 "ten total oldest requests" were withdrawn in FY 2015.

TEN OLDEST APPEALS

14. In Fiscal Year 2015, did your agency close the ten oldest appeals that were pending in your Fiscal Year 2014 Annual FOIA Report?

No. No "ten oldest appeals" were pending at the end of FY 2014.

15. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C(5) of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A.

TEN OLDEST CONSULTATIONS

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

No. No "ten oldest consultations" were pending at the end of FY 2014.

17. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten oldest consultations to close, please indicate that.

N/A.

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

The RRB's OIG reports that a lack of resources, as well as the complexity of the individual requests, contributed to its inability to close its ten oldest requests.

19. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A.

20. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal year 2016.

In FY 2016, the RRB/OIG plans to assure that proper resources and priority are given to the handling of the ten pending requests reported at the end of FY 2015.

Use of FOIA's Law Enforcement "Exclusions"

1. Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2015?

No.

2. If so, what is the total number of times exclusions were invoked?

Not applicable.

Spotlight on Success

RSS Feeds & Email Subscriptions

RSS (Really Simple Syndication) is a technology that allows organizations to deliver content to a desktop computer or other Internet device. By subscribing to RSS feeds, users can easily stay up-to-date with areas of the RRB's web site that are of interest and provide resultant feedback. RRB feeds consist of headline, brief summary, and a link that leads back to the agency's web site for more information. RSS feeds and email subscriptions are available for content such as Annual RRA & RUIA Data, Budget and Financial Reports, Earnings Limits, Tax Rates & COLA's, Monthly & Quarterly RRA & RUIA Data, Office of the Inspector General - Library, Open Government Initiative, Railroad Job Vacancies Reported to the RRB, Recent Updates on the RRB Web Site, and RRBVision Video Presentations. - <http://www.rrb.gov/rss/rss.asp>