

## **2017 Chief FOIA Officer Report for the U.S. Railroad Retirement Board (RRB)**

The RRB submits this report for Fiscal Year 2016 in response to the request in the United States Department of Justice Office of Information Policy FOIA Post, "Agency 2016 Chief 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.

#### **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?

Yes.

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

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 FOIA policy memoranda and guidance and are responsible in carrying out those responsibilities as they responds to all FOIA requests. During this reporting period, one General Attorney and one Paralegal of my staff

attended a two and a half-day "FOIA and Privacy Act Workshop" provided by the American Society of Access Professionals (ASAP) in Chicago, Illinois.

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.

All RRB FOIA staff were trained and refreshed on the FOIA and relevant policy guidance in FY 2016.

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 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.

#### **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?

No.

#### **C. Other Initiatives:**

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

All agency employees participate in annual mandatory Privacy Awareness training and are trained on their obligations pursuant to the FOIA.

If there are any other initiatives undertaken by your agency to ensure 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 release under the foreseeable harm standard, 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**

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 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.

The RRB did not adjudicate any requests for expedited processing in Fiscal Year 2016.

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. During the reporting period, did you 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.

During FY 2016, the RRB reviewed its previous FOIA Annual Report data and updated its FOIA website content to remain compliant with the FOIA Improvement Act of 2016.

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

The RRB received one request from a commercial requester.

**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.

The agency's FOIA staff contact information is posted on the FOIA.gov website for public knowledge and to facilitate the receipt of comments, complaints, and/or suggestions.

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.

No assistance was sought in Fiscal Year 2016 from the agency's FOIA Public Liaison.

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.

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

### **C. Other Initiatives:**

If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, 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'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 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.

### **A. Posting Material:**

1. Describe your agency's process for identifying "frequently requested" records required to be posted online.

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.

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.

The RRB FOIA professionals regularly meet with the FOIA Officer to discuss documents for proactive disclosure. In addition, the FOIA staff regularly meets with high level management officials from the RRB's Office of the Chief Information Officer (CIO), which includes the privacy section, and staff from the RRB's Office of Public Affairs (OPA), to identify documents for proactive disclosure and posting online.

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

No.

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

N/A.

5. 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 the Railroad Retirement Board's Office of General Counsel's online database of Legal Opinions and Board Coverage Decisions which was launched in FY 2016 located at <https://legallibrary.rrb.gov/Home.aspx>. (See also "Success Stories" below). 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	<a href="http://www.data.gov/details/1331">http://www.data.gov/details/1331</a>
Longevity of Railroad Retirement Beneficiaries	<a href="http://www.data.gov/details/1332">http://www.data.gov/details/1332</a>
Railroad Retirement Act Annuitants and Active Railroad Employees by Congressional District	<a href="http://www.data.gov/details/1330">http://www.data.gov/details/1330</a>
Total Number of Railroad Employees by State and Last Railroad Employer, 2007	<a href="http://www.data.gov/details/455">http://www.data.gov/details/455</a>
Total Railroad Employment by State and County, 2007	<a href="http://www.data.gov/details/456">http://www.data.gov/details/456</a>
Open Government Webpage	<a href="http://www.rrb.gov/open">www.rrb.gov/open</a>
Freedom of Information Act Report Publishing	<a href="http://www.rrb.gov/open">www.rrb.gov/open</a> )
Agency Plans, Management and Reports	<a href="http://www.rrb.gov/general/plan_rpt_inv.asp#fair">http://www.rrb.gov/general/plan_rpt_inv.asp#fair</a> <a href="http://www.rrb.gov/mep/agency_mgt.asp">http://www.rrb.gov/mep/agency_mgt.asp</a> <a href="http://www.rrb.gov/opa/AnnualRprt/Ann_Rpt_toc.asp">http://www.rrb.gov/opa/AnnualRprt/Ann_Rpt_toc.asp</a>
Agency Procedure Manuals	<a href="http://www.rrb.gov/general/admin_manuals_index.asp">http://www.rrb.gov/general/admin_manuals_index.asp</a>
Board Coverage Decisions	<a href="http://www.rrb.gov/blaw/bcd/cov_introduction.asp">http://www.rrb.gov/blaw/bcd/cov_introduction.asp</a>
Congressional Requests	<a href="mailto:ola@rrb.gov">ola@rrb.gov</a>
Federal Register	<a href="http://www.gpoaccess.gov/fr/index.html">http://www.gpoaccess.gov/fr/index.html</a> <a href="http://www.rrb.gov/irm/fedreg_notices.asp">http://www.rrb.gov/irm/fedreg_notices.asp</a> <a href="http://www.rrb.gov/irm/fedreg_regs.asp">http://www.rrb.gov/irm/fedreg_regs.asp</a>
Financial, Actuarial and Statistical Data	<a href="http://www.rrb.gov/mep/fin_act_stat.asp">http://www.rrb.gov/mep/fin_act_stat.asp</a>

Forms and Publications

<http://www.rrb.gov/general/handbook/toc.asp>  
[http://www.rrb.gov/mep/ben\\_forms.asp](http://www.rrb.gov/mep/ben_forms.asp)  
[http://www.rrb.gov/mmo/rail\\_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](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/introduction.asp)  
[http://www.rrb.gov/bis/privacy\\_act/SORNList.asp](http://www.rrb.gov/bis/privacy_act/SORNList.asp)

Records Management [http://www.rrb.gov/rrbvision/video\\_library.asp](http://www.rrb.gov/rrbvision/video_library.asp)

6. 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.

**B. Other Initiatives:**

7. If there are any other steps your agency has taken to increase 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?

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.

##### **A. 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.

In FY 2016, the RRB digitized, indexed, and catalogued 258 binders of Legal Opinions maintained in the Board's Office of General Counsel so they are electronically retrievable through [www.rrb.gov](http://www.rrb.gov) by Board staff and the public, including attorneys, claimants, railroad employers, etc. See "Spotlight on Success" below.

##### **B. Other Initiatives:**

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

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 2017.

Due to unexpected delays caused by other agency priorities, specifically pending litigation cases, in conjunction with significant staffing shortages during part of FY 2016, 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 2017.

### **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce 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 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.

#### **A. Simple Track:**

Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time to All Processed Requests," includes figures that show your agency's response time 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?

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 2016 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?

Yes. The average number of days to process non-expedited requests was 12.85 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 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.

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

The number of backlogged requests reported by the RRB's Office of Inspector General (OIG) increased from 10 reported in FY 2015 to 11 in FY 2016.

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 2016.

The percentage of requests that make up the backlog out of the total number of requests received by the RRB in FY 2016 is 8.9 percent.

**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 to reduce the backlog.

No backlog of appeals was reported by the RRB in FY 2015 or FY 2016.

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

N/A.

### **C. 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**

11. In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 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 2015 Annual FOIA Report. If you had less than the ten total oldest requests to close, please indicate that.

Five "ten total oldest requests" reported in FY 2015 were closed in FY 2016.

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 2016.

#### **TEN OLDEST APPEALS**

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

No. No "ten oldest appeals" were pending at the end of FY 2016.

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

No "ten oldest consultations" were pending at the end of FY 2015.

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 2016 Annual FOIA Report. If you had less than ten oldest consultations to close, please indicate that.

N/A.

### **D. Additional Information on Ten Oldest Request, Appeals, and Consultations & Plans:**

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

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 2017.

In FY 2016, the RRB/OIG plans to assure that proper resources and priority are given to the handling of the eleven pending requests reported at the end of FY 2017.

## **E. Success Stories:**

### **RRB Legal Opinion/Board Coverage Decision Digitization Project**

During 2014 through 2016, the Railroad Retirement Board's Office of General Counsel's began an online database of Legal Opinions and Board Coverage Decisions. The Library contains over 80 years of Legal Opinions issued by the Office of General Counsel and its predecessor Bureau of Law since the Railroad Retirement Board's (Board) founding in 1935. In addition, the Library contains all Board Coverage Decisions issued by the Board.

The General Counsel has issued legal opinions on topics covering all aspects of the Railroad Retirement Act (RRA - 45 U.S.C. § 231 et. seq.) and the Railroad Unemployment Insurance Act (RUIA - 45 U.S.C. § 351 et. seq.) and the attendant Federal Regulations promulgated by the Board (20 CFR Parts 200 - 375). Legal Opinions have been released by the General Counsel in every year, starting in 1935; however this database remains under construction. We estimate that all opinions and Decisions will be posted to the searchable database by the close of the second quarter of the 2017 Fiscal Year (March 31, 2017)

In 2014, a major research and preservation project began. The Board's Office of General Counsel partnered with a private document preservation firm (National Business Systems, Inc.), to scan every legal opinion issued by the General Counsel over the 80 years of the Board's existence and to create a text-searchable database of all the opinions. The project was divided into six phases, broken down as follows:

1. Phase 1 legal opinions : (1935 - '37; '75 - '76; '94 - 2013)
2. Phase 2 legal opinions : (1938 - 1943)
3. Phase 3 legal opinions : (1973 - '74; 1977 - 1993)
4. Phase 4 legal opinions : (1944 - 1954)
5. Phase 5 legal opinions : (1955 - 1972)\*
6. Phase 6 Board Coverage Decisions (1993 - present)\*

Board Coverage Decisions and Legal Opinions from 2014 to the present are being posted to the online database on a quarterly basis starting with the first quarter of FY 2017.

\*Opinions in these phases are pending review and will be loaded in the near future.