

# **The Federal Retirement Thrift Investment Board**

## **2012 Chief FOIA Officer Report**

This report was prepared by Amanda Haas, Chief FOIA Officer, FRTIB.

### **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.

**1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?**

Our Agency did not hold an Agency-wide FOIA training session during this period. The FOIA was discussed amongst the Agency's FOIA team in the Office of the General Counsel (OGC), and two members from the team attended the training conducted by the Department of Justice.

**2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?**

Yes. Our Agency FOIA professionals attended the training conducted by DOJ on October 13, 2011.

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In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

**3. Did your agency make any discretionary releases of otherwise exempt information?**

The Agency has not yet made releases of otherwise exempt information because the majority of the information withheld from FOIA requests are that of personal and confidential information that would constitute a clearly unwarranted invasion of personal privacy.

**4. What exemptions would have covered the information that was released as a matter of discretion?**

N/A

**5. Describe your agency's process to review records to determine whether discretionary releases are possible.**

OGC first determines if a record qualifies for an exemption that permits discretionary releases. Our attorneys determine whether there is a foreseeable harm in disclosure and then take reasonable steps to segregate and release nonexempt information when possible.

**6. Describe any other initiatives undertaken by your Agency to ensure that the presumption of openness is being applied.**

The Agency is proactive at posting information online in advance of any public request.

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In Section V.B. (1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests" the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

**7. Did your agency have an increase in the number of responses where records were released in full?**

Yes. The number of full grants doubled in size in 2011. In 2010 the Agency had 4 full grants and in 2011 we had 8 full grants.

**8. Did your agency have an increase in the number of responses where records were released in part?**

No. The Agency did not have an increase in partial grants. In 2010 the Agency had 7 partial grants and in 2011 we had 6 partial grants.

**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."

**1. Do FOIA professionals within your agency have sufficient IT support?**

Yes, our Agency does have sufficient IT support. To date, because the Agency does not receive a significant number of FOIA requests, the Agency has not required significant support from its IT staff as OGC has been able to process all FOIA requests in a timely and thorough manner. However, OGC does collaborate with the Agency's IT staff occasionally in order to post certain FOIA material at FRTIB.gov.

**2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?**

Yes. Our Chief FOIA Officer interacts with the Agency FOIA professionals anytime a FOIA request comes in.

**3. Do your FOIA professionals work with your agency's Open Government Team?**

N/A. Because our Agency is so small, there is no distinction between our FOIA professionals and an Open Government Team. It is in itself, the same group.

**4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.**

Our Agency receives on average, twenty five FOIA requests per year. Our FOIA Officer works closely with the Assistant General Counsel to respond to these requests and forwards requests, when necessary, to other departments in the Agency for assistance. Our staffing has always been adequate for the amount of requests that we have received.

**5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.**

Our Agency felt no additional steps were needed.

**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.

**1. Has your agency added new material to your website since last year?**

Yes. The Agency launched a new Web site in July 2010 and is constantly updating items to stay current with the needs of the participants and beneficiaries.

**2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.**

The two most recent additions to the site are an informational video on the new Roth and the 2011 Participant Survey Results. Additional items that we added during 2011 are as follows:

- Added [Retired Funds](#) section under Investment Funds to provide historical information.
- [Beneficiary Participant](#) section added under Plan Participation; several forms were created just for beneficiaries and many existing forms were updated to include them.
- [L 2050 Fund](#) launched.
- Promoted America Saves/Military Saves Weeks.
- Added "[Ways To Save](#)" under Planning & Tools, a chart to help participants visualize the benefits of compound savings on even the smallest of contributions.
- Promoted Financial Literacy Month.
- Redesigned Account Balance page in My Account to provide balance by Fund, by Contribution, and a Contribution Summary.
- Redesigned the Recent Transactions page in My Account to provide greater drill-down detail of most transaction types.
- Provided timely letters from the Executive Director regarding the launch of the L 2050 Fund on the effect of a Government Shutdown on the TSP and the debt limit.

**3. Describe the system your agency uses to routinely identify records that are appropriate for posting.**

If the Agency notices that a specific item is being requested by several individuals or would be of interest to the public, the Agency then posts that information to its website.

**4. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?**

Our Agency encourages TSP.gov users to give feedback under the Participant Support tab. This tool provides users the opportunity to submit comments/inquiries regarding Website issues. The IT department then addresses those technical issues as needed. If the comment/inquiry is regarding TSP information material posted on the website, the Office of Participant Services then addresses those communication issues as needed.

The Agency is currently working on future implementation of a website tool that gives the user the capability to have live online interaction with a TSP customer service representative. There is no date yet as to when this capability will be available.

**5. Describe any other steps taken to increase proactive disclosures at your agency.**

No other steps were taken.

**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. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

**Electronic receipt of FOIA requests:**

**1. Can FOIA requests be made electronically to your agency?**

Effective March 16, 2012, the public will be able to officially send FOIA requests electronically. We have accepted electronic FOIA requests in the past, however; the Agency submitted a direct final rule to change our regulations to reflect an email address and facsimile number specifically assigned for incoming FOIA requests.

**2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?**

N/A

**Online tracking of FOIA requests:**

**3. Can a FOIA requester track the status of his/her request electronically?**

No.

**4. If not, is your agency taking steps to establish this capability?**

The FOIA team has discussed this capability and it may be a possibility in the future, but for now requestors must call and request a status update by telephone or by email.

**Use of technology to facilitate processing of requests:**

- 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?**

No.

- 6. If so, describe the technological improvements being made.**

N/A

**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 and appeals. *For the figures required in this Section, please use those contained in the specified sections of your agency's 2011 Annual FOIA Report.*

- 1. 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. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.**

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

No.

- b. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?**

N/A

- c. 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 is 16.

- 2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.**

- a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?**

N/A. Our Agency had no backlogs.

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?**

N/A

- c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?**

N/A. The Agency had no pending requests.

- d. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?**

N/A. The Agency had no appeals.

- 3. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:**

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?**

N/A

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?**

N/A

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?**

N/A

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?**

N/A

Administrative Appeal Backlog:

- e. Was the lack of a reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?**

N/A

- f. Was the lack of a reduction in the appeal backlog caused by a loss of staff?**

N/A

- g. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?**

N/A

- h. What other causes, if any, contributed to the lack of a decrease in the appeal backlog?**

N/A

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

**1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?**

No.

**2. Has your agency increased its FOIA staffing?**

No.

**3. Has your agency made IT improvements to increase timeliness?**

No.

**4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?**

Our Agency does not receive consultations from other agencies.

### **Use of FOIA's Law Enforcement "Exclusions"**

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

**1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?**

No.

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

N/A

### **Spotlight on Success**

We feel our Agency has always strived to respond to its FOIA Requests with a presumption of disclosure. However; we do understand that there is always room for improvement in other areas. This year we focused on providing more convenient ways of submitting a FOIA request rather than our antiquated system of accepting requests through postal mail only. This is why we amended our Federal Regulations, U.S.C. § 1631.6. By adding two additional ways of submitting a FOIA request we are lifting those restrictions on how the requests

come to us, and we are sending a message to the public saying that we welcome their requests.