

## **Time Frame for Report**

Unless otherwise noted, agency 2015 Chief FOIA Officer Report should address agency activities that have occurred since the filing of last year's Report, which was March 17, 2014, up until the filing of the 2015 Report (March 15, 2015). Thus, the general reporting period for the Chief FOIA Officer Reports is March 2014 to March 2015.

## **Content of 2015 Chief FOIA Officer Reports**

For 2015, OIP is making a significant change from prior years' Chief FOIA Officer Reports by creating streamlined reporting requirements for agencies that receive a lower volume of requests, i.e., less than 1,000 incoming requests. By providing these lower-volume agencies with separate reporting requirements, we can more easily address the realities and needs of agencies with smaller FOIA administrations.

**Name of Agency:** *Occupational Safety and Health Review Commission (OSHRC)*

**Name and Title of your Agency's Chief FOIA Officer:** *Nadine Mancini, General Counsel*

***OSHRC receives fewer than 1,000 requests per year and, therefore, will follow the reporting requirements for agencies that receive a lower volume of requests.***

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### **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.

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.

#### ***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?*

- Such training or events can include offerings from OIP, your own agency or another agency or organization.*

**Answer: Yes.**

*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.*

**Answer: 25% of OSHRC's FOIA professionals (none of whom work on FOIA full time) attended substantive FOIA training.**

3. In the *2014 Chief FOIA Officer Report Guidelines*, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

- Include any successes or challenges your agency has seen in implementing your plan.

**Answer: OSHRC continues to encourage agency FOIA professionals to attend the Department of Justice's training sessions and roundtables, and to have those who attend share information with the rest of the FOIA team.**

**Outreach:**

*Section questions only apply to high-volume agencies. Response not required for OSHRC.*

**Discretionary Releases:**

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

- If so, please briefly describe this process.
- If your agency is decentralized, please specify whether all components of your agency have such a process or system in place?

**Answer: Yes. Because of the small number of FOIA requests processed per year at OSHRC, our FOIA professionals are trained to promptly flag and review requested records for discretionary release.**

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

**Answer: Yes.**

6. What exemption(s) would have covered the material released as a matter of discretion? For a discussion of the exemptions that allow for discretionary releases, please see OIP's guidance *on implementing the President's and Attorney General's FOIA Memoranda*.

**Answer: Exemption 2.**

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.

**Answer: During the reporting year, a document containing internal details about OSHRC's charge card management plan was released.**

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

**Answer:** 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.*

*If any of these initiatives are online, please provide links in your description.*

**Answer:** OSHRC actively applies the presumption of openness underlying the President's FOIA memorandum and Attorney General's FOIA guidelines when processing its FOIA requests. In determining whether to redact or withhold a requested record, OSHRC always considers the presumption of openness before making a final decision about the release.

## **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.

Please answer the following questions to describe the steps your agency has taken to ensure that your 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.

***Personnel:***

*Section questions only apply to high-volume agencies. Response not required for OSHRC.*

***Processing Procedures:***

*1. For Fiscal Year 2014, 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.*

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2014.*

**Answer:** 8 days

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

**Answer: N/A.**

***Requester Services:***

*3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration? See OIP Guidance, “Notifying Requesters of the Mediation Services Offered by OGIS.” (July 9, 2010)*

**Answer: No. OSHRC processes a small amount of requests per year and disputes with requesters are uncommon. Should a dispute arise, however, we would notify requesters of OGIS’s mediation services.**

*4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester? For example, does your agency explain the amount of fees attributable to search, review, and duplication? 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)*

**Answer: Yes. OSHRC provides an invoice to requesters when FOIA fees are assessed; the invoice explains the amount of fees attributable to search, review, and duplication, and provides an hourly breakdown of those fees. When fees are assessed, OSHRC’s FOIA professionals also typically explain to the requester how the fees were calculated.**

*5. If estimated fees estimates are particularly high, does your agency provide an explanation for the estimate to the requester? See *id.**

**Answer: Yes. In situations where fees estimates are particularly high, OSHRC provides the requester with an explanation beyond a simple fee breakdown.**

***Other Initiatives:***

*6. 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.*

**Answer: The OSHRC Chairman’s 2009 management initiative to enhance agency transparency continues to support this goal. In keeping with that initiative, as well as the President’s FOIA Memorandum and Attorney General’s FOIA Guidelines, OSHRC’s FOIA professionals work diligently to continue improving the effectiveness and efficiency of processing FOIA requests. Examples of such efforts include: (1) staying in close contact with the agency offices that maintain requested records to process requests within the statutorily required response times; (2) utilizing OSHRC’s electronic case management system to improve record search capabilities when processing FOIA requests that seek**

records associated with OSHRC cases; and (3) implementing the requirements of the Plain Writing Act of 2010 as they relate to the agency's FOIA program and procedures. This past year, the agency developed and launched an electronic, web-accessible FOIA request form that makes it easier for requesters to identify the records they are seeking and helps streamline the FOIA process.

### **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 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.

#### ***Posting Material:***

*1. 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.*

**Answer: Yes. Because of the small number of FOIA requests processed per year at OSHRC, our FOIA professionals are trained to flag documents that are requested multiple times, or documents for which we anticipate future demand, and immediately consider whether such materials should be proactively disclosed on our website.**

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

**Answer: Yes. When the FOIA team or other agency personnel identifies a record for proactive disclosure, our FOIA professionals collaborate with outside agency staff as needed to ensure the record is appropriate for disclosure and if so, promptly posted.**

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

**Answer: As with identifying records for proactive disclosure, the small number of FOIA requests processed per year at OSHRC allows our FOIA professionals to flag documents that are requested multiple times, or documents for which we anticipate future demand, and immediately consider whether such materials should be proactively disclosed on our website.**

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

**Answer:** Thirteen OSHRC orders have been posted on our website's Open Government page because of anticipated public interest in these rulings:

<http://www.oshrc.gov/open/SignificantOrders.html>. In addition, OSHRC continues to maintain a comprehensive "e-FOIA Reading Room" where records considered of public interest are posted: [http://oshrc.gov/foia/foia\\_reading\\_room.html](http://oshrc.gov/foia/foia_reading_room.html).

***Other Initiatives:***

*5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.*

**Answer:** The Chief FOIA Officer works to maintain open lines of communication between the FOIA Requester Service Center and key agency personnel. Additionally, in keeping with the Open Government Directive issued by the Office of Management and Budget on December 8, 2009, OSHRC continually monitors and updates its Open Government page at [www.data.gov](http://www.data.gov).

## **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 that describes your agency's efforts in this area.

***Online Tracking of FOIA Requests and Appeals:***

*Section questions only apply to high-volume agencies. Response not required for OSHRC.*

***Making Material Posted Online More Useful:***

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

- Steps can include soliciting feedback on the content and presentation of posted material, improving search capabilities on your agency website, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.*

**Answer:** No. However, our FOIA professionals are trained to provide any voluntary feedback received directly from requesters to the Chief FOIA Officer for review and

**evaluation. To date, we have not received any feedback on our posting format, but requesters have expressed appreciation that requested materials are available in our e-FOIA Reading Room or otherwise posted on our website.**

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

- *If your agency is already posting material in its most useful format, please describe these efforts.*

**Answer: OSHRC currently posts material on a dedicated FOIA page on our agency website; this material is posted in the most useful format (both PDF and HTML file types). Records are also posted in the same format on the website's Open Government page.**

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

**Answer: No.**

*4. If so, please briefly explain what those challenges are.*

**Answer: N/A.**

#### ***Use of Technology to Facilitate Processing of Requests:***

*Section questions only apply to high-volume agencies. Response not required for OSHRC.*

#### ***Other Initiatives:***

*5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?*

- *Please see OIP's [guidance](#) for posting of quarterly reports to ensure that your agency is following all required steps (including using the correct file type and URL structure) so that your quarterly reports are properly appearing on FOIA.gov. (If your reports are posted to your website but not appearing on FOIA.gov, please contact OIP in order to resolve the issue.)*

**Answer: Yes.**

*6. 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 2015.*

**Answer: N/A.**

*7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever 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 are utilized by your agency to communicate with requesters?*

**Answer: Yes.** This reporting year, OSHRC developed an electronic FOIA request form that we posted on our website’s FOIA page in June 2014. The form has successfully allowed requesters to provide all the information necessary to facilitate their FOIA request and automatically submit the request electronically to the FOIA Service Center. The requester is then sent an electronic confirmation that the FOIA Service Center has received the request. Requesters also frequently communicate with our FOIA Disclosure Officers by email to clarify requests and obtain information, such as processing status.

*8. If your agency does not communicate electronically with requesters 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.*

**Answer: N/A.**

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

The **President** and the **Attorney General** have emphasized the importance of improving timeliness in responding to requests. This section 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 2014 Annual FOIA Report and, when applicable, your agency’s 2013 Annual FOIA Report.*

**Simple Track:** Section VII.A of your agency’s Annual FOIA Report, entitled “FOIA Requests – Response Time for All Processed Requests,” includes figures that show your agency’s average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for “simple” requests, which are those requests that are placed in the agency’s fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.

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

**Answer: Yes.**

*2. If so, for your agency overall in Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?*

**Answer: Yes.**

*3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.*

**Answer: 96.61% (57 of 59).**

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

**Answer:** N/A.

**Backlogs:** Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

### **BACKLOGGED REQUESTS**

5. *If your agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?*

- *If not, explain why and describe the causes that contributed to your agency not being able 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*

**Answer:** N/A.

6. *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 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with "N/A."*

- *To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of requests received in Fiscal Year 2014, which can be found in Section V.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.*

**Answer:** N/A.

### **BACKLOGGED APPEALS**

7. *If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?*

- *If not, explain why and describe the causes that contributed to your agency not being able reduce backlog. When doing so, please also indicate if any of the following were contributing factors:*
  - *An increase in the number of incoming appeal*
  - *A loss of staff*
  - *An increase in the complexity of the appeals received*

**Answer: N/A.**

*8. 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 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with "N/A."*

*To calculate your agency's percentage, you must divide the number of backlogged appeals reported in Section XII.A. of your Fiscal Year 2014 Annual FOIA Report by the number of appeals received in Fiscal Year 2014, which can be found in Section VI.A. of your Annual FOIA Report. Once divided, you can multiply that number by 100 to get the percentage.*

**Answer: N/A.**

***Backlog Reduction Plans:***

*Section questions only apply to high-volume agencies. Response not required for OSHRC.*

***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 2013 and Fiscal Year 2014 when completing this section of your Chief FOIA Officer Report.

***TEN OLDEST REQUESTS***

*9. In Fiscal Year 2014, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

**Answer: Yes.**

*10. 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 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.*

- For example, if you only had seven requests listed as part of your "ten oldest" in Section VII.E. and you closed six of them, you should note that you closed six out of seven "oldest" requests.*

**Answer: N/A.**

*11. Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were*

*closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?*

**Answer: None.**

### **TEN OLDEST APPEALS**

*12. In Fiscal Year 2014, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

**Answer: N/A.**

*13. 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 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.*

- *For example, if you only had seven appeals listed as part of your "ten oldest" in Section VII.C.(5) and you closed six of them, you should note that you closed six out of seven "oldest" appeals.*

**Answer: N/A.**

### **TEN OLDEST CONSULTATIONS**

*14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Annual FOIA Report?*

**Answer: N/A.**

*15. 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 2013 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.*

*For example, if you only had seven consultations listed as part of your "ten oldest" in Section XII.C. and you closed six of them, you should note that you closed six out of seven "oldest" consultations.*

**Answer: N/A.**

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

*16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.*

**Answer: None.**

*17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was*

*initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.*

**Answer: N/A.**

*18. 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 2015.*

**Answer: N/A.**

***Interim Responses:***

*Section questions only apply to high-volume agencies. Response not required for OSHRC, but a voluntary response is provided for Question 21.*

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

**Answer: Yes. OSHRC provides substantive interim responses to requesters when appropriate. Interim responses were provided for several FOIA requests during this reporting period. Specifically, OSHRC issued interim responses during complex-track request processing and simple-track request processing where a portion of responsive records was fully processed, but the remaining records required further review or processing, such as numerous redactions. OSHRC has found that issuing interim responses increases requester satisfaction with the FOIA process since the requester can obtain responsive records without having to wait for the request to be fully processed.**

**Use of the FOIA’s Law Enforcement Exclusions**

*Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?*

*If so, please provide the total number of times exclusions were invoked.*

**Answer: N/A.**

**Success Story**

Out of all the activities undertaken by your agency since March 2014 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you

would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency **success stories** will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

*Section questions only apply to high-volume agencies. Response not required for OSHRC. However, a voluntary response is provided.*

**Answer: During the reporting period, OSHRC successfully developed and launched an electronic, web-accessible FOIA request form. This accomplishment touches upon three of the five key areas:**

- **Ensuring that there are Effective Systems for Responding to Requests**
  - **Increases likelihood that requesters submit complete, perfected requests, which in turn speeds up response time.**
  - **Creates a more effective system by facilitating timely receipt and tracking of requests to meet statutory response times.**
- **Increasing the Utilization of Technology,**
  - **Helps OSHRC's FOIA professionals better track incoming requests and confirm receipt to requesters.**
  - **Enhances agency's use of technology to better communicate with requesters.**
- **Improving Timeliness and Reducing Backlogs.**
  - **Streamlines OSHRC's FOIA process, increasing the efficiency of processing and responding to requests.**
  - **Enables OSHRC's FOIA professionals to more expediently review and process requests by having key request components logically segregated.**