

## **Time Frame for Report**

Unless otherwise noted, agency 2016 Chief FOIA Officer Report should address agency activities that have occurred since the filing of last year's Report, which was March 16, 2015, up until the filing of the 2016 Report (March 14, 2016). Thus, the general reporting period for the Chief FOIA Officer Reports is March 2015 to March 2016.

## **Content of 2016 Chief FOIA Officer Reports**

**Name of agency: Occupational Safety and Health Review Commission**

**Name and Title of your Agency's Chief FOIA Officer: Nadine N. 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 2009 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: 100%**

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 FOIA training during the next reporting year.

**Answer: N/A.**

***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 able 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 2009 FOIA Memoranda.

**Answer: Exemption 5.**

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: Records containing internal deliberations about personnel matters were released.**

8. If your agency was not able to make any discretionary releases of information, please explain why. For example, you should note here if your agency did not have an opportunity to make discretionary disclosures because you provided full releases in response to all requests or the only exemptions that were applied were those that do not lend themselves to discretionary release (i.e. Exemptions 1, 3, 4, 6, 7A, 7B, 7C, 7F).

**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**

The Attorney General'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 that describes your agency's efforts in this area.

### ***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 2015 Annual FOIA Report.

- Please note here if your agency did not adjudicate any requests for expedited processing during Fiscal Year 2015.

**Answer: 9 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.**

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 requester 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 requesters thirty working days to respond.

**Answer: OSHRC has not had occasion to send a "still interested" inquiry.**

### ***Requester Services:***

4. Agency FOIA Requester Service Centers 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.

- If your agency has not taken any steps recently to strengthen these services, either because there has been no need to due to low demand or because these services are already robust, please briefly explain that that here.

**Answer: Because of the small number of FOIA requests processed per year at OSHRC, our FOIA professionals are able to provide personalized service to each requester—this includes both providing information about how our FOIA process works and answering any questions related specifically to their request.**

***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.

**Answer: OSHRC implemented a management initiative in February 2009 to enhance agency transparency. In keeping with that initiative, as well as the President's FOIA Memorandum and Attorney General's FOIA Guidelines, our 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 year, OSHRC also launched a Spanish language version of its electronic request form, which further streamlines our existing FOIA process.**

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

Both the President's and Attorney General'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 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. Describe your agency's process or system 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.

**Answer: Any record requested (or anticipated to be requested) three or more times is flagged by our FOIA professionals and posted online in our e-FOIA Reading Room.**

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

- Please note that this question is directed towards proactive disclosure of records that go beyond frequently requested records required to be posted under Subsection (a)(2) of the FOIA.

**Answer: Yes. Because of the small number of FOIA requests processed per year at OSHRC, our FOIA professionals are able to flag records that may be of public interest, and immediately consider whether such materials should be proactively disclosed on our website.**

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, provide an estimate of how much time is involved for each of your FOIA professionals and your agency overall.

- Please note that this question is directed at the efforts of actually posting the records online once all disclosure determinations have been made. For example, efforts to load the records in your web content platform or making the releasable documents accessible in compliance with Section 508 of the Rehabilitation Act.

**Answer: No.**

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

**Answer: No.**

5. If so, please briefly explain those challenges.

**Answer: N/A.**

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

**Answer: OSHRC maintains a comprehensive e-FOIA Reading Room where the records flagged by our FOIA professionals for proactive disclosure are posted. [http://oshrc.gov/foia/foia\\_reading\\_room.html](http://oshrc.gov/foia/foia_reading_room.html). For example, this year OSHRC proactively disclosed several records related to a pending case involving a unique issue of potential public interest. <http://www.oshrc.gov/foia/IHM/SecLabvIHM.html>.**

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

- For example, this can be done through social media or with the offering of e-mail subscription services.

**Answer: Yes. OSHRC recently issued a press release, which appeared prominently on the homepage of our agency's website, when a record of potential public interest was proactively disclosed. Our FOIA professionals also notify requesters when records related to their request are already available for download in the agency's e-FOIA Reading Room.**

***Other Initiatives:***

8. 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. For example, OSHRC's Chief FOIA Officer ensured that OIP's recently released FOIA infographic was included in the agency's new employee handbook. This infographic reminds all OSHRC employees of the role they play in the FOIA process, which includes identifying records suitable for proactive disclosure. 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.

***Making Material Posted Online More Usable:***

1. Beyond posting new material, is your agency taking steps to make the posted information more useable 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, OSHRC has 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 its dedicated FOIA webpage and in its comprehensive e-FOIA Reading Room; this material is posted in the most useful format (both PDF and/or HTML file types). Records are also posted in the same format on the website's Open Government page.**

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

*Not required, but agencies may answer the questions for this section from the high-volume guidelines if they have information they would like to include.*

***Other Initiatives:***

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

- 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 of FOIA.gov, please contact OIP in order to resolve the issue.)

**Answer: Yes.**

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.

**Answer: N/A.**

5. 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 that are utilized by your agency to communicate with requesters?

**Answer: Yes. In mid-2014, OSHRC successfully implemented an electronic FOIA request form, which allows requesters to submit their requests electronically. This year, in order to continue improving our communication with requesters, OSHRC launched a Spanish language version of its electronic request form and related instructions, which are both accessible from our dedicated FOIA webpage. Requesters also frequently communicate with our FOIA professionals by email to clarify requests and obtain other information, such as processing status.**

6. 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's FOIA Memorandum and the Attorney General's 2009 FOIA Guidelines have emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.

*For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2015 Annual FOIA Report and, when applicable, your agency's 2014 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 2015, 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 2015 that were placed in your simple track.

**Answer: 82% (45/55)**

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 2014 and Fiscal Year 2015 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 2015, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2014?

**Answer: N/A.**



6. 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. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

**Answer: N/A.**

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.

- To calculate your agency's percentage, you must divide the number of backlogged requests reported in Section XII.A. of your Fiscal Year 2015 Annual FOIA Report by the number of requests received in Fiscal Year 2015, 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**

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?

**Answer: N/A.**

9. 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 appeals.
- A loss of staff.
- An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.
- Any other reasons – please briefly describe or provide examples when possible.

**Answer: 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 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 2015 Annual FOIA Report by the number of appeals received in Fiscal Year 2015, 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.**

### **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?

**Answer: Yes.**

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 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.**

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?

**Answer: None.**

### **TEN OLDEST APPEALS**

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

**Answer: N/A.**

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.

- 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**

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?

**Answer: N/A.**

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 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:***

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

**Answer: None.**

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.

**Answer: 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.

**Answer: N/A.**

**Use of the 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?

**Answer: No.**

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

**Answer: N/A.**

**Success Story**

*Not required, but agencies may answer the questions for this section from the high-volume guidelines if they have information they would like to include.*

Out of all the activities undertaken by your agency since March 2015 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.

- **Increased utilization of our new electronic request form (introduced in mid-2014), along with an internal emphasis on electronic communication, helped reduce OSHRC's average response time for both simple and complex requests. To build on this success, OSHRC recently launched a Spanish language version of its electronic request form and related instructions, both of which can be accessed from its dedicated FOIA webpage. This new electronic request form illustrates OSHRC's ongoing commitment to continually improve the efficiency and effectiveness of its FOIA process.**