



Chief FOIA Officer Report

U.S. Railroad Retirement Board Phone: (312) 751-7139
844 North Rush Street TTY: (312) 751-4701
Chicago Illinois, 60611-2092 Web: <http://www.rrb.gov>

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

The RRB submits this report in response to the request in the United States Department of Justice Office of Information Policy email of September 30, 2009. The report has been prepared by Steven A. Bartholow, General Counsel/Chief FOIA Officer, RRB.

I. Steps Taken to Apply the Presumption of Openness.

1. 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 concerning the President's FOIA memorandum and the Attorney General's FOIA guidelines and are responsible in carrying out those responsibilities as they respond to all FOIA requests. We continue to make discretionary releases when possible and have taken actions to make additional proactive disclosures, such as posting additional financial and statistical information relating to the RRB's core mission of paying benefits, on both the RRB's agency and FOIA websites.
2. The number of full grants to requests has continued to increase since FY 2007 to the present, i.e., from 34 in FY 2007 to 53 in FY 2009. In FY 2008, the agency released 48 full grants and 5 partial grants. In FY 2009, the agency released 55 full grants and 15 partial grants.

II. Steps Taken to Ensure that the RRB has an Effective System for Responding to Requests.

The RRB's system for responding to requests is set forth in some detail below. Because of the average number of requests received annually, we believe this centralized process is the most effective FOIA-administration structure. We continue to monitor and assess our information technology to ensure that FOIA professionals have sufficient information technology support to perform their required functions.

III. Steps Taken to Increase Proactive Disclosures.

The RRB reviewed and upgraded the FOIA web pages as part of the agency's website redesign in 2005. We continue to monitor FOIA webpage content to make sure it remains timely and consistent with current law. FOIA staff have the responsibility and authority to update the RRB website as necessary. The website offers access to copies of the agency's procedure manuals, final decisions of the three-member Board which heads the agency, rulings of the Board and legal opinions. Other information is available to the public without filing a FOIA request in the Federal Register and the RRB Group Information Locator System (GILS) website. An example of additional material provided since the issuance of the new FOIA Guidelines include a more comprehensive list of the agency's procedural manuals. Additionally, five data sets of statistical information have been added to the RRB's Open Government Initiative located at <http://www.rrb.gov/open/default.asp>.

IV. Steps Taken to Greater utilize Technology.



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1.) Does your agency currently receive requests electronically?

Yes, the RRB receives requests electronically through its E-FOIA system created by the RRB's Bureau of Information Services.

2.) If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?

n/a

3.) Does your agency track requests electronically?

Yes, the RRB tracks requests electronically through its E-FOIA system created by the RRB's Bureau of Information Services and the Office of General Counsel's assignment control log.

4.) If not, what are the current impediments to your agency utilizing a system to track requests electronically?

n/a

5.) Does your agency use technology to process requests?

Currently, the RRB does not use technology to process requests.

6.) If not, what are the current impediments to your agency utilizing technology to process requests?

Due to the average number of requests received within a given year, currently around 100, the RRB has determined that utilizing an electronic system for responding to requests is unnecessary at this time. We will continue to evaluate this option.

7.) Does your agency utilize technology to prepare your Annual FOIA Report?

No, the RRB does not use technology to prepare its Annual FOIA Report. We do not currently see a need for the use of additional automated processing technologies.

8.) If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report.

Due to the average number of requests received within a given year, currently around 100, the RRB has determined that utilizing technology in preparing its Annual FOIA Report is unnecessary and would not be cost-effective. We will continue to monitor this process to provide effective and efficient processing of FOIA requests.



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V. Steps Taken to Reduce Backlogs and Improve Timeliness of Responding to Requests.

1. The RRB has no current backlog. In FY 2008, the RRB had a backlog of 5 requests. In FY 2009, the RRB did not have a backlog of requests or appeals.

2. If there has not been a reduction in the backlog describe why that has occurred and what steps your agency is taking to bring about a reduction.

n/a

3. Describe the steps your agency is taking to improve timeliness in responding to requests and to administrative appeals.

Because the RRB has no problem with timeliness in responding to requests and administrative appeals, we are not taking any current steps to improve timeliness.



ADDENDUM BY THE
RAILROAD RETIREMENT BOARD
GENERAL COUNSEL
(AGENCY CHIEF FOIA OFFICER)

The effective functioning of our constitutional democracy depends upon the participation in public life of a citizenry that is well informed. For nearly four decades, the Freedom of Information Act (FOIA) has provided an important means through which the public can obtain information regarding the activities of federal agencies such as the U.S. Railroad Retirement Board (RRB). Under the FOIA, the public can obtain records from the RRB, subject to certain exemptions enacted by the Congress to protect information that must be held in confidence for the government to function effectively or for other purposes. The FOIA is an essential part of our democracy and compliance with the FOIA is one of the means of maintaining an open and accountable system of government.

On March 19, 2009, Attorney General Eric Holder issued comprehensive new guidelines to the heads of executive departments and agencies governing the Freedom of Information Act (FOIA). These guidelines reaffirm the government's "commitment to accountability and transparency" as directed by President Obama in his Memorandum on the FOIA issued January 21, 2009, his first full day in office.

The Attorney General's FOIA Guidelines address both the presumption of openness that the President called for in his FOIA Memorandum and the necessity for agencies to create and maintain an effective system for responding to requests and proactively making information available to the public in order to achieve the "new era of open Government" that the President envisions.

First, as to the presumption of openness, the Attorney General's FOIA Guidelines strongly encourage agencies to make discretionary releases of records. They also direct agencies not to withhold records simply because a FOIA exemption may technically apply. Moreover, whenever full disclosure of a record is not possible, agencies are directed to consider whether a partial disclosure can be made.

Significantly, the Attorney General FOIA's Guidelines establish a new standard for defending agencies. A denial of a FOIA request will now be defended by the Department of Justice "only if (1) the agency reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions or (2) disclosure is prohibited by law."

Second, the topic of effective agency implementation of the FOIA is thoroughly addressed in the Attorney General's FOIA Guidelines. The Guidelines discuss the critical roles played by agency Chief FOIA Officers as well as agency FOIA professionals. The Guidelines also emphasize the need for agencies to work cooperatively with requesters, to utilize technology to make information available to the public proactively, and to make timely responses to requests a priority.

Finally, the Attorney General's FOIA Guidelines call on agency Chief FOIA Officers to review their agencies' FOIA administration each year and to report to the Department of Justice on the steps taken to achieve improved transparency.



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At the RRB, we are committed to more than just compliance with both President Obama's FOIA Memorandum and Attorney General Holder's FOIA Guidelines Order, as well as any other law applicable to the FOIA. Among other things:

- We are committed to working with our FOIA requesters, and the public in general, to continuously improve our FOIA operations;
- We are committed to processing FOIA requests in an efficient, timely, and appropriate manner and to continuously achieving tangible, measurable improvements in FOIA processing;
- We are committed to responding to, and servicing, our FOIA requesters in a courteous, polite, and respectful manner;
- We are committed to providing FOIA requesters, and the public in general, with citizen-centered ways to learn about the FOIA process;
- We are committed to providing FOIA requesters, and the public in general, with timely information about agency records that are publicly available;
- We are committed to providing FOIA requesters, and the public in general, with timely information and about the status of an individual's FOIA request and appropriate information about the agency's response;
- We are committed to substantially increasing the number of agency documents, particularly those that are frequently-requested, made available on our website so that the public does not need to resort to a FOIA request to gain access to these agency documents and to making those documents available in an organized and intelligible manner;
- We are committed to a proactive and thoughtful approach to information disclosure;
- We are committed to the use of technology to track, and expedite the processing of, FOIA requests;
- We are committed to utilizing creative and innovative approaches to substantially reduce any future backlog of FOIA requests;
- We are committed to improving communication with our FOIA requesters and to more proactively understanding and clarifying FOIA requests; and
- We are committed to a citizen-centered and results-oriented approach.

As the designated Chief FOIA Officer for the RRB, I am pleased to submit this report, which includes the commitments listed above and presents the review of the RRB's current FOIA operations. This report is directed to ensuring that the RRB's administration of the FOIA is not only, at a minimum, in compliance



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with the law and the policies set forth in the President's Memorandum, but also that the RRB strives to continuously improve its FOIA operations and exceed the expectations of its FOIA requesters.

/s/ Steven A. Bartholow
RRB General Counsel/Chief FOIA Officer



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Overall Nature of RRB's FOIA Operations

In the 1930's, Congress established the RRB as an independent agency in the executive branch of the federal government. The primary duty of the RRB is to administer retirement/survivor and unemployment/sickness insurance benefit programs under the Railroad Retirement Act and the Railroad Unemployment Insurance Act. These programs provide income protection during old age and in the event of disability, death or temporary unemployment and sickness. The RRB also administers aspects of the Medicare program and has administrative responsibilities under the Social Security Act and the Internal Revenue Code.

During fiscal year 2009, retirement-survivor benefits of some \$10.5 billion were paid to about 589,000 beneficiaries, while net unemployment-sickness benefits of \$160 million, including over \$10 million in temporary extended unemployment benefits under the American Recovery and Reinvestment Act of 2009, were paid to more than 40,000 claimants. At the end of fiscal year 2009, the average annuity paid to retired rail employees was some \$2,165 a month, spouse benefits averaged \$795 a month, and benefits for aged widow(er)s averaged \$1,295 a month. The maximum biweekly rate for unemployment and sickness benefits was \$640.

The RRB staff currently includes approximately 969 employees as of December 31, 2009. The agency's headquarters is located at 844 North Rush Street, Chicago, Illinois 60611-2092 and the agency has 53 field offices nationwide. The agency's small size and concise mission result in on average around 100 FOIA requests annually. Our average processing time for FOIA requests last year was around 14 days. In 2005, the RRB launched a redesigned website (www.rrb.gov) that is more user-friendly and makes publicly available many of the categories of documents that used to result in FOIA requests.

Internet availability of these documents has reduced the number of FOIA requests. This allows us to focus on the remaining requests, which tend to be somewhat more complex. Information available from the RRB under the FOIA includes the agency's procedure manuals, final decisions of the three-member Board which heads the agency, rulings of the Board and legal opinions. Legal opinions since 1997 and Board Coverage Decisions are periodically posted to the RRB web site and available without a request under the Freedom of Information Act.

Because the RRB administers a comprehensive program of railroad retirement, unemployment, and sickness benefits for railroad workers, it also maintains information about individuals which may not be disclosed in response to a FOIA request. The Railroad Retirement Act, the Railroad Unemployment Insurance Act, and the Privacy Act restrict the disclosure of information about individuals. If a request is made for information about an individual, as a general rule, the requester must provide the RRB a written authorization signed by the individual who is the subject of that record.

RRB's FOIA operations are centralized in the RRB's headquarters location. The RRB officials who have primary responsibility for the administration of program areas are located at RRB Headquarters in Chicago, Illinois. Numerous programs, however, are administered at the local level through 12 Networks, headed by Network Managers who oversee the operation of all RRRB program areas in their jurisdiction. RRB's primary FOIA operation is located in the FOIA Requester Service Center located within the Office



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of General Counsel (OGC). The OGC is comprised of nine attorneys (a General Counsel, an Assistant General Counsel, an Assistant to the General Counsel and 6 staff attorneys), a paralegal specialist, and three administrative support personnel. One General Attorney is primarily responsible for reviewing incoming FOIA requests, providing the requestor with an acknowledgment of the request, determining whether documents are likely to be located at Headquarters, and either initiating a search at RRB Headquarters' program offices or refer the request to a Network Manager, or non-Headquarters program-specific office, as appropriate. The General Attorney is also responsible for reviewing the program office's recommendation concerning the releasability of documents, redacting material subject to FOIA exemptions, and preparing a draft response letter to the requester for the General Counsel/Chief FOIA Officer. Two additional General Attorney's have secondary responsibility to provide back-up assistance to the primary General Attorney for FOIA requests. The three support staff personnel at Headquarters are responsible for logging in the average 100 or so FOIA requests received at Headquarters annually, including inputting pertinent information into an electronic tracking system. Support staff also perform ancillary functions, such as filing, record archiving, and time and attendance.

The Headquarters primary FOIA attorney handles all legal issues related to Headquarters FOIA requests, including researching and reviewing issues related to the applicability of exemptions, resolving fee waiver determinations, deciding requests for news media status, and responding to questions from Headquarters program staff. The primary FOIA attorney is responsible for resolving all issues that arise within Headquarters regarding responsiveness and adequacy of search by Headquarters offices. In addition, the Headquarters FOIA legal staff serves in an advisory role to the over 53 decentralized RRB offices, responding to challenging questions on processing, applicability of exemptions, interpretation of the FOIA, and the handling of non-routine FOIA requests. The Headquarters FOIA attorneys are also responsible for supervising the Headquarters FOIA Specialist processing staff, including the review and editing of all of the approximately 100 plus FOIA response letters sent by Headquarters annually. All FOIA responses are signed by the General Counsel/Chief FOIA Officer of the OGC. Supervisory duties performed by one attorney in the Headquarters FOIA Requester Service Center include assignment of cases to the FOIA attorneys, preparation of performance appraisals, progress reviews and all other personnel functions related to supervision of the non-attorneys in the FOIA Requester Service Center.

RRB's FOIA operations outside of Headquarters are administered or supervised by OGC. Each Network Manager has responsibility to forward all FOIA requests related to documents physically located within either the Network Office or district field offices within the Network Manager's jurisdiction.

It should also be noted that due to the independent nature of the RRB's Office of Inspector General (OIG), handling and reporting statistics concerning FOIA requests received by that office, is the responsibility of the OIG. However, those statistics are reflected herein for purposes of this report.