

**U.S. Railroad Retirement Board
Annual Freedom of Information Act (FOIA) Report
Fiscal Year 2011**

I. BASIC INFORMATION REGARDING REPORT.

1. Name, title, address, and telephone number of person(s) to be contacted with questions about the Report.

Karl T. Blank
General Counsel/Chief FOIA Officer
U.S. Railroad Retirement Board
844 North Rush Street
Chicago, IL. 60611-2092
312-751-4935

2. Electronic address for Report on the World Wide Web.

A copy of this Report will be posted on the RRB's Web Site at www.rrb.gov.

3. How to obtain a copy of the Report in paper form.

A copy of this Report may be obtained by writing to Steven A. Bartholow at the above address.

II. MAKING A FOIA REQUEST.

The United States Railroad Retirement Board (RRB) is a federal agency charged with the administration of the Railroad Retirement and Railroad Unemployment Insurance Acts. In general, the Railroad Retirement Act replaces the Social Security Act for employment in the railroad industry. Similarly, the Railroad Unemployment Insurance Act replaces state unemployment acts for work in the railroad industry. The RRB is headquartered at 844 North Rush Street in Chicago, Illinois 60611-2092. All written requests for records should be directed to this address.

Information available from the RRB under the Freedom of Information Act (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. Board coverage decisions and agency legal opinions are available on our web site.

Because the RRB administers a comprehensive program of railroad retirement, unemployment, and sickness benefits for railroad workers, it also maintains information about individuals that 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 someone requests information about

an individual, the requester must, as a general rule, provide the RRB a written authorization signed by the individual who is the subject of that record.

1. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

The RRB has designated the Office of General Counsel as the FOIA Requester Service Center for the agency. All requests, other than those to the Inspector General, under the FOIA should be made by writing to Steven A. Bartholow, General Counsel/ Chief FOIA Officer. No form is needed. Mark both the envelope and its contents: "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." Address your request to:

Steven A. Bartholow
 General Counsel/Chief FOIA Officer
 Railroad Retirement Board
 844 North Rush Street
 Chicago, Illinois 60611-2092

Requests may also be made by facsimile to (312) 751-7102 or by E-FOIA at foiarequest@rrrb.gov.

Because of the independent nature of the Office of Inspector General, requests for information from the Inspector General should be made by writing to Martin J. Dickman, Inspector General. No form is needed. Mark both the envelope and its contents: "FREEDOM OF INFORMATION REQUEST" or "INFORMATION REQUEST." Address your request to:

Martin J. Dickman
 Inspector General
 Railroad Retirement Board
 844 North Rush Street
 Chicago, Illinois 60611-2092

E-FOIA requests may also be made at foiarequest-oig@rrb.gov.

If someone wants to request a record that we do not publish or which we do not make available in one of our offices, the requester must give us a detailed description of the record(s) he or she wants. The requester should give us as many details as possible, such as names, dates, subject matter and location. A vague description could delay our answer or prevent us from finding the records requested. We will ask a requester to revise a request if we need information to find the record(s). A requester should include a daytime telephone number where he or she can be reached in case we have questions about the request.

2. Brief description of why some requests are not granted.

The most common reason that a request cannot be granted is the restrictions on disclosure contained in sections 12(d) and 12(n) of the Railroad Unemployment Insurance Act (45 U.S.C. § 362(d) and (n)) and section 7(b)(3) of the Railroad Retirement Act (45 U.S.C. § 231f(b)(3)), which incorporates sections 12(d) and 12(n) of the Railroad Unemployment Insurance Act. Those sections restrict the disclosure of personally identifiable material (section 12(d)) and medical records (section 12(n)). Section 12(d) has been held to be an exemption 3 statute in Association of Retired Railroad Workers v. United States Railroad Retirement Bd., 830 F. 2d 331,334 (D.C. Cir. 1987).

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS.

1. Agency-specific acronyms or other terms.
 - a. **RRB**-- Railroad Retirement Board
 - b. **FTE**—Full-time employee
 - c. **OIG** – Office of Inspector General

2. Basic terms, expressed in common terminology.
 - a. **Administrative Appeal** – a request to a federal agency asking that it review at a higher administrative level a FOIA determination made by the agency at the initial request level.
 - b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.
 - c. **Backlog** – the number of requests or administrative appeals that are pending at an agency at the end of the fiscal year that are beyond the statutory time period for a response.
 - d. **Component** – for agencies that process requests on a decentralized basis, a “component” is an entity, also sometimes referred to as an Office, Division, Bureau, Center, or Directorate, within an agency that processes FOIA requests. The FOIA now requires that agencies include in their Annual FOIA Report data for both the agency overall and for each principal component of the agency.
 - e. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because the other agency has an interest in the document. Once the agency in receipt

of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.

- f. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which the agency relies on to withhold information under subsection (b)(3) of the FOIA.
- g. **FOIA Request** – A FOIA request is generally a request to a federal agency for access to records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests) when those requesters are not subject to the Privacy Act, such as non U.S. citizens. Moreover, because all first-party requesters should be afforded the benefit of both the access provisions of the FOIA as well as those of the Privacy Act, FOIA requests also include any first-party requests where an agency determines that it must search beyond its Privacy Act “systems of records” or where a Privacy Act exemption applies, and the agency looks to FOIA to afford the greatest possible access. All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to the agency for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- h. **Full Grant** – an agency decision to disclose all records in full response to a FOIA request.
- i. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- j. **Median Number** – the middle number, not average, number. For example, of 3, 7, and 14, the median number is 7.
- k. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/ first out basis.

- i. **Expedited Processing** – an agency will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** – a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** – a FOIA request that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
 - l. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
 - m. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency has not taken final action in all respects.
 - n. **Perfected Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
 - o. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency has taken final action in all respects.
 - p. **Range in Number of Days** – the lowest and highest number of days to process requests or administrative appeals.
 - q. **Time Limits** – the time period in the statute for an agency to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).
3. The following are concise descriptions of the nine FOIA exemptions:
- a. **Exemption 1:** classified national defense and foreign relations information.
 - b. **Exemption 2:** internal agency rules and practices.
 - c. **Exemption 3:** information that is prohibited from disclosure by another federal law.

- d. **Exemption 4:** trade secrets and other confidential information.
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges.
- f. **Exemption 6:** information involving matters of personal privacy.
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- h. **Exemption 8:** information relating to the supervision of financial institutions.
- i. **Exemption 9:** geological information on wells

IV. EXEMPTION 3 STATUTES.

A. List of Exemption 3 statutes relied on by the agency during the current fiscal year.

| Statute | Type of Information Withheld | Case Citation | Number of Times Relied upon per Component | Total Number of Times Relied Upon by Agency |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|---------------------------------------------|
| 45 U.S.C. § 362 (d) (Railroad Unemployment Insurance Act) | Information obtained by the Railroad Retirement Board that reveals, in any manner, an employee's identity | <u>Ass'n of Retired Railroad Workers v. U.S. R.R. Retirement Board</u> , 830 F.2d 331, 334 (D.C. Cir. 1987); <u>Nat'l Ass'n of Retired & Veteran Ry. Employees v. R.R. Ret. Bd.</u> , 87-117, slip. op. at 5 (N.D. Ohio Feb 20, 1991). | RRB - 12 OIG - 0 | 12 |
| | | | | |

V. FOIA REQUESTS.

Initial FOIA/PA Access Requests. Due to the independent nature of the Office of Inspector General (OIG), requests for information that are directed to the OIG are handled by that office and are separately reported below.

A. Received, Processed and Pending FOIA Requests.

| | Column 1 | Column 2 | Column 3 | Column 4 |
|-----------------------|-------------------------------------------------------------|---------------------------------------------------|----------------------------------------------------|------------------------------------------------------------|
| | Number of Request Pending as of Start of Fiscal Year | Number of Requests Received in Fiscal Year | Number of Requests Processed in Fiscal Year | Number of Requests Pending as of End of Fiscal Year |
| RRB | 1 | 100 | 100 | 1 |
| OIG | 0 | 5 | 5 | 0 |
| AGENCY OVERALL | 1 | 105 | 105 | 1 |

B. (2) Disposition of FOIA Requests – “Other” Reasons for “Full Denials Based on Reasons Other than Exemptions” from Section V, B (1) Chart

| Component | Description of “Other” Reasons for Denials from Chart B (1) & Number of Times Those Reasons Were Relied upon | TOTAL |
|-----------|--------------------------------------------------------------------------------------------------------------|-------|
| RRB | 0 | 0 |
| OIG | 0 | 0 |

B. (3) Disposition of FOIA Requests – Number of Times Exemptions Applied

| | Ex. 1 | Ex. 2 | Ex. 3 | Ex. 4 | Ex. 5 | Ex. 6 | Ex. 7(A) | Ex. 7(B) | Ex. 7(C) | Ex. 7(D) | Ex. 7(E) | Ex. 7(F) | Ex. 8 | Ex. 9 |
|----------------|-------|-------|-------|-------|-------|-------|----------|----------|----------|----------|----------|----------|-------|-------|
| RRB | 0 | 0 | 12 | 0 | 1 | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| OIG | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| AGENCY OVERALL | 0 | 0 | 12 | 0 | 1 | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

VI. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS

Note: The OIG did not have any administrative appeals to report, therefore no statistics are reported for the OIG in this section.

A. Received, Processed and Pending Administrative Appeals

| Number of Appeals Pending as of Start of Fiscal Year | Number of Appeals Received in Fiscal Year | Number of Appeals Processed in Fiscal Year | Number of Appeals Pending as of End of Fiscal Year |
|-------------------------------------------------------------|--------------------------------------------------|---------------------------------------------------|-----------------------------------------------------------|
| RRB 0 | 4 | 4 | 0 |

B. Disposition of Administrative Appeals – All Processed Appeals

| Number Affirmed on Appeal | Number Partially Affirmed & Partially Reversed/Remanded on Appeal | Number Completely Reversed/Remanded on Appeal | Number of Appeals Closed for Other Reasons | TOTAL |
|----------------------------------|------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------|--------------|
| RRB 3 | 1 | 0 | 0 | 4 |

C. (2) Reasons for Denial on Appeal – Reasons Other than Exemptions

RRB -

| No Records | Records Referred at Initial Request Level | Request Withdrawn | Fee-Related Reason | Records not Reasonably Described | Improper Request for Other Reasons | Not Agency Record | Duplicate Request or Appeal | Request in Litigation | Appeal Based Solely on Denial of Request for Expedited Processing | Other *Explain in chart below |
|------------|-------------------------------------------|-------------------|--------------------|----------------------------------|------------------------------------|-------------------|-----------------------------|-----------------------|-------------------------------------------------------------------|----------------------------------|
| 3 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 |

C. (3) Reasons for Denial on Appeal – “Other” Reasons from Section VI, C (2) Chart

RRB -

| Description of “Other” Reasons for Denial on Appeal from Chart C (2) & Number of Times Those Reasons Were Relied upon | TOTAL |
|-----------------------------------------------------------------------------------------------------------------------|-------|
| 0 | 0 |

C. Processed Requests – Response Time in Day Increments

Simple Requests

| | 1-20 Days | 21-40 Days | 41-60 Days | 61-80 Days | 81-100 Days | 101-120 Days | 121-140 Days | 141-160 Days | 161-180 Days | 181-200 Days | 201-300 Days | 301-400 Days | 401+ Days | TOTAL |
|-------------------|--------------|---------------|---------------|---------------|----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|--------------|-------|
| RRB | 89 | 8 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 100 |
| OIG | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 5 |
| AGENCY OVERALL | 94 | 8 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 105 |

D. Pending Requests – All Pending Perfected Requests

| | SIMPLE | | | COMPLEX | | | EXPEDITED PROCESSING | | |
|-----------------------|----------------|-----------------------|------------------------|----------------|-----------------------|------------------------|----------------------|-----------------------|------------------------|
| | Number Pending | Median Number of Days | Average Number of Days | Number Pending | Median Number of Days | Average Number of Days | Number Pending | Median Number of Days | Average Number of Days |
| RRB | 1 | 215 | 215 | 0 | 0 | 0 | 0 | 0 | 0 |
| OIG | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| AGENCY OVERALL | 1 | 215 | 215 | 0 | 0 | 0 | 0 | 0 | 0 |

E. Pending Requests – Ten Oldest Pending Perfected Requests

| | 10 th Oldest Request and Number of Days Pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest Request and Number of Days Pending |
|-----|------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------------------------------|
| RRB | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | 2010-11-23 215 |
| OIG | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 |

| Agency Overall | 10 th Oldest Request and Number of Days Pending | 9 th | 8 th | 7 th | 6 th | 5 th | 4 th | 3 rd | 2 nd | Oldest Request and Number of Days Pending |
|----------------|------------------------------------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-------------------------------------------|
| | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | N/A 0 | 2010-11-23 215 |

VIII. REQUESTS FOR EXPEDITED PROCESSING AND REQUESTS FOR FEE WAIVER

A. Requests for Expedited Processing

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate | Number Adjudicated Within Ten Calendar Days |
|---------------------------|---------------------------|--------------------------|--------------------------------------------------------|---------------------------------------------------------|----------------------------------------------------------------|
| RRB | 0 | 0 | 0 | 0 | 0 |
| OIG | 0 | 0 | 0 | 0 | 0 |
| AGENCY OVERALL | 0 | 0 | 0 | 0 | 0 |

B. Requests for Fee Waiver

| | Number Granted | Number Denied | Median Number of Days to Adjudicate | Average Number of Days to Adjudicate |
|---------------------------|---------------------------|--------------------------|--------------------------------------------------------|---------------------------------------------------------|
| RRB | 4 | 0 | 7 | 7 |
| OIG | 0 | 0 | 0 | 0 |
| AGENCY OVERALL | 4 | 0 | 7 | 7 |

IX. FOIA PERSONNEL & COSTS

| | PERSONNEL | | | COSTS | | |
|---------------------------|-----------------------------------------------|-------------------------------------------------------------|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------|---------------------------------|----------------|
| | Number of "Full-Time FOIA Employees" | Number of "Equivalent Full-Time FOIA Employees" | Total Number of "Full-Time FOIA Staff" (The sum of Columns 1 & 2) | Processing Costs (At initial request and appeal levels) | Litigation- Related Costs | Total Costs |
| RRB | 0 | 0.50 | .50 | \$52,978. | \$10,000. | \$62,978. |
| OIG | 0 | 0.50 | .50 | \$4,483. | 0 | \$4,483. |
| AGENCY OVERALL | 0 | 0.50 | .50 | \$57,461. | \$10,000. | \$67,461. |

X. FEES COLLECTED FOR PROCESSING REQUESTS

| | Total Amount of Fees Collected | Percentage of Total Costs |
|-----------------------|---------------------------------------|----------------------------------|
| RRB | \$218. | 0.41 |
| OIG | \$0. | 0 |
| AGENCY OVERALL | \$218. | 0.38 |

XI. FOIA REGULATIONS

- The Board's FOIA regulations may be found at <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=cfr&docid=20CFR200.4>.

XII. BACKLOGS, CONSULTATIONS, AND COMPARISONS**A. Backlogs of FOIA Requests and Administrative Appeals**

| | Number of Backlogged Requests as of End of Fiscal Year | Number of Backlogged Appeals as of End of Fiscal Year |
|---------------------------|-----------------------------------------------------------------------|----------------------------------------------------------------------|
| RRB | 1 | 0 |
| OIG | 0 | 0 |
| AGENCY OVERALL | 1 | 0 |

B. Consultations on FOIA Requests – Received, Processed, and Pending Consultations

| | Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>Start</u> of the Fiscal Year | Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year | Number of Consultations Received from Other Agencies that Were <u>Processed</u> by Your Agency During the Fiscal Year | Number of Consultations Received from Other Agencies that Were <u>Pending</u> at Your Agency as of <u>End</u> of the Fiscal Year |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| RRB | 0 | 0 | 0 | 0 |
| OIG | 0 | 0 | 0 | 0 |
| AGENCY OVERALL | 0 | 0 | 0 | 0 |

D. Comparison of Numbers of Requests from Previous and Current Annual Report – Requests Received, Processed, and Backlogged

| | NUMBER OF REQUESTS <u>RECEIVED</u> | | NUMBER OF REQUESTS <u>PROCESSED</u> | |
|-----------------------|-------------------------------------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------------|
| | Number Received During Fiscal Year from Last Year's Annual Report | Number Received During Fiscal Year from Current Annual Report | Number Processed During Fiscal Year from Last Year's Annual Report | Number Processed During Fiscal Year from Current Annual Report |
| RRB | 119 | 100 | 118 | 100 |
| OIG | 1 | 5 | 1 | 5 |
| AGENCY OVERALL | 120 | 105 | 119 | 105 |

| | Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report | Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report |
|---------------------------|-------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| RRB | 1 | 1 |
| OIG | 0 | 0 |
| AGENCY OVERALL | 1 | 1 |

E. Comparison of Numbers of Administrative Appeals from Previous and Current Annual Report – Appeals Received, Processed, and Backlogged

| | NUMBER OF APPEALS <u>RECEIVED</u> | | NUMBER OF APPEALS <u>PROCESSED</u> | |
|-----------------------|-------------------------------------------------------------------|---------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------------|
| | Number Received During Fiscal Year from Last Year's Annual Report | Number Received During Fiscal Year from Current Annual Report | Number Processed During Fiscal Year from Last Year's Annual Report | Number Processed During Fiscal Year from Current Annual Report |
| RRB | 3 | 4 | 3 | 4 |
| OIG | 0 | 0 | 0 | 0 |
| AGENCY OVERALL | 3 | 4 | 3 | 4 |

| | Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report | Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report |
|---------------------------|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| RRB | 0 | 0 |
| OIG | 0 | 0 |
| AGENCY OVERALL | 0 | 0 |