



PENSION BENEFIT GUARANTY CORPORATION

2014

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CHIEF FOIA OFFICER'S REPORT

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WASHINGTON, DC 20005



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## ABOUT PBGC

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The Pension Benefit Guaranty Corporation (PBGC) protects the retirement incomes of more than 40 million American workers in more than 26,000 private-sector defined benefit pension plans. A defined benefit plan provides a specified monthly benefit at retirement, often based on a combination of salary and years of service. PBGC was created by the Employee Retirement Income Security Act of 1974 to encourage the continuation and maintenance of private-sector defined benefit pension plans, provide timely and uninterrupted payment of pension benefits, and keep pension insurance premiums at a minimum.

PBGC is not funded by general tax revenues. PBGC collects insurance premiums from employers that sponsor insured pension plans, earns money from investments and receives funds from pension plans it takes over.

The maximum pension benefit guaranteed by PBGC is set by law and adjusted yearly. For plans that end in 2013, the maximum guarantee for workers who retire at age 65 is \$57,477.24 yearly (\$4,789.77 monthly). The guarantee is lower for those who retire early or when there is a benefit for a survivor. The guarantee is increased for those who retire after age 65.

## OUR CUSTOMERS<sup>1</sup>

In accordance with its [Customer Service Plan](#), PBGC serves a range of customers with disparate interests and expectations.

First are the 1.5 million people to whom the agency pays or owes pension benefits, whether directly or through financial assistance to multiemployer plans. These participants in private-sector plans now administered by PBGC depend on PBGC for their retirement security and expect quick, accurate benefit determinations and prompt, uninterrupted benefit payments.

PBGC's customers also include the companies with PBGC-insured plans and the pension professionals who assist them. These practitioners and plan administrators expect PBGC to promptly and accurately process their premium payments, dispense reliable advice and rulings, and resolve issues affecting their plans quickly and responsively. Practitioners include plan sponsors and pension professionals such as lawyers, accountants, and actuarial consultants.

PBGC also serves a range of customers interested in retirement planning and pension plans, such as Congress, Federal Agencies and State Government, General Public, Media, PBGC Employees and Contractors.

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<sup>1</sup> See PBGC Customer Service Fact Sheet: <http://www.pbgc.gov/res/factsheets/page/customer-service.html>.



**SECTION I: STEPS TAKEN TO APPLY THE PRESUMPTION OF OPENNESS**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

**FOIA TRAINING:**

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

**Yes.**

2. If so, please provide the number of conferences or trainings held, a brief description of the topics covered, and an estimate of the number of participants from your agency who were in attendance.

**In Fiscal Year 2013, the PBGC held 17 conferences and/or training sessions as described below:**

<i>Date</i>	<i>Topic</i>	<i>Course Objective</i>	<i>Audience</i>
1/25/13 & 2/7/13	eDisclosure Training	Provide overview of how to use the eDisclosure System <sup>2</sup>	Disclosure Division Staff (approx. 12 attendees)
3/18/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	PBGC-wide (approx. 500 attendees)
3/27/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	Delaware Field Benefit Office (approx. 58 attendees)
4/4/13	Responding to Access Requests	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	FOIA Liaisons (approx. 10 attendees)
4/10/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	Document Management Center (approx. 50 attendees)
4/16/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	Customer Contact Center (approx. 20 participants)

<sup>2</sup> eDisclosure is PBGC's legacy electronic FOIA processing system, which was subsequently replaced with FOIAonline.



<i>Date</i>	<i>Topic</i>	<i>Description</i>	<i>Audience</i>
4/18/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	Customer Call Center (approx. 20 attendees)
4/19/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	Customer Call Center (approx. 20 attendees)
6/20/13	Responding to Access Requests Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	FOIA Liaisons (approx. 10 attendees)
Spring 2013	Exemption (b)(4) Training	Review guidelines of Exemption (b)(4) and how they apply to PBGC records.	Disclosure Division Staff (approx. 12 attendees)
8/16/13	FOIA Awareness & Privacy Access	Provide overview of the FOIA and Privacy Act and how the two statutes interface.	Customer Contact Center (approx. 20 attendees)
9/10/13 & 9/12/13	FOIAonline Training	Provide overview of how to use the FOIAonline Tool.	Disclosure Staff (approx. 10 attendees)
9/19/13	FOIAonline Training	Question & Answer Session	Disclosure Staff (approx. 10 attendees)
10/8/13 & 10/9/13	FOIAonline Training	Provide overview of how to use FOIAonline Tool.	FOIA Liaisons (approx. 12 attendees)

3. Did your FOIA professionals attend any FOIA training during the reporting period such as that provided by the Department of Justice?

**Yes.**

4. Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period.

**80%.**

5. OIP has issued guidance that every agency should make core, substantive FOIA training available to all their FOIA professionals at least once each year. Provide your agency’s plan for ensuring that such training is offered to all agency FOIA professionals by March 2015. Your plan should anticipate an upcoming reporting requirement for your 2015 Chief FOIA Officer Reports that will ask whether all agency FOIA professionals attended substantive FOIA training in the past year.

**PBGC will continue to make substantive FOIA training a priority core goal for all of its Government Information Specialists and program end-**



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**users, as it has for many years. The Disclosure Officer and/or Deputy Disclosure Officer will communicate upcoming training opportunities to Disclosure staff, designated FOIA Liaisons, and relevant attorneys by posting this information on its intranet web page.**

#### **OUTREACH:**

6. Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA? If so, please briefly discuss that engagement.

**Indirectly, yes. The PBGC solicits feedback from its customers on a regular basis—this information is gathered through surveys, feedback and incoming phone calls to PBGC’s Resolution Officers. As a result of comments from the public, the Disclosure Division extended its delegated authority to the Customer Call Center and Document Management Center allowing them to release income verification information in response to a third-party requester when the written request is accompanied with consent. Please see examples of PBGC’s outreach activities, currently posted on pbgc.gov, by clicking on the links below:**

- 1) **<http://www.pbgc.gov/about/pg/other/csp.html>**
- 2) **<http://www.youtube.com/watch?v=WnpIFCfBk9o&list=UUw7JZxUMi4sqzowVCY4soGA&feature=c4-overview>**

#### **DISCRETIONARY DISCLOSURES:**

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

7. Does your agency have a formal process 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 at your agency have a process in place for making discretionary releases.

**Yes. The PBGC has a formal process in place to review records for discretionary release. For responses, invoking exemption (b)(5), the Disclosure Officer and/or the Deputy Disclosure Officer reviews the withheld information to determine whether a foreseeable harm could**



**result from a release of the requested documents. If a foreseeable harm does not exist, the Disclosure Officer makes a discretionary release.**

8. During the reporting period did your agency make any discretionary releases of otherwise exempt information?

**Yes.**

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

**Exemption (b)(5).**

10. Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.

**As a matter of discretion, for example, the PBGC released the following information:**

- 1) OIG Audit Report of PBGC Benefit Administration & Payment Department services.**
- 2) PBGC's Performance and Financial Report which included PBGC's liabilities.**
- 3) Press Releases regarding future trusteeship activities.**

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

**N/A.**

#### **OTHER INITIATIVES:**

12. Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, please explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.

**The PBGC successfully posted the 2013 Quarter 1 Report. Due to technical difficulties Quarter 2, 3, and 4 reports were posted but not readable at the following links:**

<http://www.pbgc.gov/foia/quarterly/PBGC-2013-Q2.zip>

<http://www.pbgc.gov/foia/quarterly/PBGC-2013-Q3.zip>

<http://www.pbgc.gov/foia/quarterly/PBGC-2013-Q4.zip>

**PBGC has designated one person on the web team to ensure reports are consistently and correctly posted.**



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13. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links in your description.

**The PBGC has undertaken numerous initiatives that ensure that the presumption of openness is being applied. First, the Disclosure Division implemented its first FOIA Liaison Program. The FOIA Liaison Program is the formal designation of a FOIA point of contact for each department and/or division, as appropriate. The program was implemented in three-phases: 1) Initiation; 2) FOIA/Privacy Act Training; and 3) Electronic Processing System Training.**

**During the initiation phase, Department leadership was also asked to support the development of the program by designating a member of their staff to become a FOIA Liaison for each of their division offices, or as deemed necessary. Upon acceptance by senior leaders, the second phase, included providing training to the newly designated FOIA Liaisons on the procedures of the FOIA, FOIA exemptions & exclusions, consent, routine uses and exceptions as provided in the Privacy Act. Finally, the third phase consisted of the Disclosure Division providing numerous training session on its electronic processing system.**

**In October, the PBGC executed a Memorandum of Understanding with the Environmental Protection Agency and joined the consortium of other agencies that use FOIAonline. FOIAonline is intended to create efficiency and consistency in the way Government agencies respond to FOIA requests. The system is a multi-tenant, online FOIA repository and secure agency processing system to be used by partner agencies across the federal government. This system will improve upon the functionality currently available to agency FOIA professionals, subject matter experts, and the public. The public will benefit from this system because it will have the ability to electronically submit FOIA requests to fewer government websites, track the status of requests, and search and review public requests and agency responses. Participating agencies will benefit from the system's ability to generate reports and store FOIA requests and responses in a repository for reuse.**



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## SECTION II: STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS

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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.

Describe here the steps your agency has taken to ensure that your management of your FOIA program is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

### PERSONNEL:

**In Fiscal Year 2012, the Disclosure Division executed the findings of its workload analysis conducted in Fiscal Year 2011. The analysis uncovered numerous collateral and extraneous services that the Disclosure Division provided to other divisions and departments. Some of these services included documenting receipt of IRS Levy requests and subpoenas even when no records were requested; indexing confidentiality agreements, reviewing and redacting information for other than access requests, e.g. court documents, etc. Based on these results, the Disclosure Division streamlined its business processes and re-focused its mission to primarily process FOIA and Privacy Act requests. In addition to processing FOIA and Privacy Act requests, the Disclosure Division continues to review and redact Appeals Board Decisions and agency Administrative Records. As a result, the Disclosure Division was able to eliminate four contractor positions at the beginning of 2013.**

During Sunshine Week 2012 OPM announced the creation of a new job series entitled the Government Information Series, to address the work performed by FOIA and Privacy Act professionals. Creation of this distinct job series was a key element in recognizing the professional nature of their work.

1. Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?

**Yes.**

2. If not, what proportion of personnel has been converted to the new job series?

**N/A.**



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3. If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?

N/A.

#### **PROCESSING PROCEDURES:**

4. For Fiscal Year 2013 did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A.

5. Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective, such as entering into agreements with other agencies or components on how to handle certain categories or types of records involving shared equities so as to avoid the need for a consultation or referral altogether, or otherwise implementing procedures that speed up or eliminate the need for consultations. If so, please describe those steps.

**N/A. It is not necessary for the PBGC to take steps to improve handling of consultations and referrals because the PBGC did not receive or make any consultations or referrals. Most, if not all, requests submitted to the PBGC are for records in which no other agencies share equities.**

#### **REQUESTER SERVICES:**

6. Do you use e-mail or other electronic means to communicate with requesters when feasible?

**Yes.**

7. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at NARA?

**Yes. The PBGC provides this information on the agency's website located at the following link<sup>3</sup>:**

**<http://www.pbgc.gov/about/pg/footer/foia.html#ogis>**

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<sup>3</sup> If the link does not work, please copy and paste the URL into your browser.



8. Describe 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.

**The PBGC entered into a Memorandum of Understanding with the Environmental Protection Agency to use its FOIAonline workflow processing system. The Disclosure Division has conducted training to its staff, FOIA Liaisons, relevant attorneys, and other program end-users on how to use the system.**

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### SECTION III: STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

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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.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2013 to March 2014). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

#### **POSTING MATERIAL:**

1. Do your FOIA professionals have a system in place to identify records for proactive disclosures?

**Yes.**

2. If so, describe the system that is in place.

**The Disclosure Division works closely with PBGC's Communications and Public Affairs Department to ensure that frequently requested information and information that will likely be requested, is published on pbgc.gov in advance of receiving a FOIA request.**

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.



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The PBGC has posted the following<sup>4</sup>:

- 1) Appeals Board Decision Letters: <http://www.pbgc.gov/prac/appeals-board/appeals-decisions.html>
- 2) Congressional Testimony: Testimony of PBGC Director Joshua Gotbaum before the Health, Employment, Labor, and Pensions Subcommittee, House Committee on Education and the Workforce (March 5, 2013)  [Related Video](#)
- 3) Monthly disclosure of PBGC activities: <http://www.pbgc.gov/news/press.html>
- 4) PBGC Media Appearances: <http://www.pbgc.gov/news/multimedia.html>
- 5) PBGC Resources: <http://www.pbgc.gov/res/>
- 6) Factsheets: <http://www.pbgc.gov/res/factsheets.html>
- 7) Pension Insurance Data: <http://www.pbgc.gov/res/data-books.html>
- 8) Single Employer Plan Freeze: <http://www.pbgc.gov/Documents/Plan-Freeze-2013-EA-meeting.pdf>
- 9) Multi-employer Plan News: <http://www.pbgc.gov/res/annual-reports/multiemployer-plan-news-and-info.html>
- 10) Search Engine for Plans Trusted by PBGC: <http://www.pbgc.gov/wr/trusteed/plans.html>

#### **MAKING POSTED MATERIAL MORE USEFUL:**

4. 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, such as soliciting feedback on the content and presentation of posted material, improving search capabilities on the site, posting material in open formats, making information available through mobile applications, providing explanatory material, etc.?

**Yes.**

5. If so, provide examples of such improvements.

**In FY 2013, PBGC made hundreds of customer-recommended improvements to help visitors more easily find information, better understand what they find, and determine sooner whether PBGC is the**

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<sup>4</sup> If the link does not work, please copy and paste the URL into your browser.



**right organization to help them. PBGC added links in better locations, improved how search terms bring up relevant results, and made FAQs more prominent with clearer content so even first-time visitors could readily understand the information.**

**In addition, PBGC boosted its social media outreach with expanded use of Facebook, Twitter, and the blog, Retirement Matters, using these tools to share information about PBGC and American retirement security. And, across all of our online platforms, PBGC became increasingly robust in providing timely and relevant information.**

6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If so, was social media utilized?

**Yes, the PBGC established a blog titled, Retirement Matters, and PBGC also uses Twitter, Facebook and YouTube to make proactive disclosures and communicate with the public.**

**<http://www.pbgc.gov/about/who-we-are/retirement-matters/>**

**<https://twitter.com/uspbgc>**

**<https://www.facebook.com/pages/Pension-Benefit-Guaranty-Corporation-PBGC/91530573008>**

**<http://www.youtube.com/user/uspbgc>**

7. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.

**Yes. Requests for specific pension plan information, such as the Summary Plan Description and Pension Plan Amendments, account for more than 50 percent of the documents requested by PBGC participants and/or their third party representatives. Pension plans are amended over time and under certain circumstances when the plan becomes trustee by PBGC. As such, although a group of participants may belong to the same pension plan, they may be covered by different versions of that same plan. Therefore, posting pension plan information in the public domain may create confusion for the participant if the wrong pension plan is inadvertently selected. For example, the participant may access the correct employer but the incorrect pension plan for which he or she is covered.**



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

**In an effort to provide requesters, plan participants, practitioners, and third-party representatives with real time updates about PBGC information, the PBGC has implemented use of a delivery subscription service which allows the public to subscribe to topics of interest in eight subject areas. You may view this website by clicking on the link below<sup>5</sup>:**

<http://www.pbgc.gov/res/stay-informed.html>

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#### SECTION IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

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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. Over the past several years agencies have reported widespread use of technology in receiving and tracking FOIA requests and preparing agency Annual FOIA Reports. For 2014, as we have done over the past years, the questions have been further refined and now also address different, more innovative aspects of technology use.

#### ONLINE TRACKING OF FOIA REQUESTS:

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

**Yes.**

2. If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?

**This tracking information is provided to the public through PBGC's use of the online portal, FOIAonline.**

3. Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search

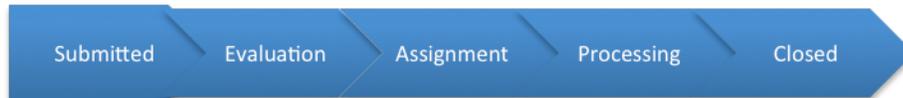
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<sup>5</sup> If the link does not work, please copy and paste the URL into your browser.



commenced" or "documents currently in review." List the specific types of information that are available through your agency's tracking system.

**FOIAonline provides the requester with five possible answers to an inquiry:**



- 4. In particular, does your agency tracking system provide the requester with an estimated date of completion for his/her request?

**No. The FOIAonline system provides a statutory date of completion.**

- 5. If your agency does not provide online tracking of requests, is your agency taking steps to establish this capability? If not, please explain why.

N/A.

**USE OF TECHNOLOGY TO FACILITATE PROCESSING OF REQUESTS:**

- 6. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

**Yes.**

- 7. If so, describe the technological improvements being made.

**The Disclosure Division is taking steps to utilize advanced technology to improve record search capabilities and de-duplicating of records.**

**Search: In an effort to improve record search capabilities, the Disclosure Division established read-only access to many of the systems used by the PBGC. Direct access to these systems reduces overall search time because Disclosure staff is able to independently search for responsive documents.**

**De-duplicating: The Disclosure Division has identified a temporary solution to de-duplicate records using Adobe's document management utility. The Disclosure Division will begin conducting training on how to use the utility at the end of February 2014.**



8. Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?

**Not at this time.**

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## **SECTION V: STEPS TAKEN TO IMPROVE TIMELINESS IN RESPONDING TO REQUESTS AND REDUCING BACKLOGS**

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The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations. For the figures required in this Section, please use those contained in the specified sections of your agency's 2013 Annual FOIA Report and, when applicable, your agency's 2012 Annual FOIA Report.

### **SIMPLE TRACK REQUESTS:**

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

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

**PBGC did not utilize a separate track for simple requests in Fiscal Year 2013. However, beginning in Fiscal Year 2014, PBGC is now able to categorize requests as simple or complex. As such, the Disclosure Division plans to amend its business processes to create a separate track for simple requests.**

- b. If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?

N/A.

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



**Yes. Although the PBGC did not track simple requests separately, the average number of days to process complex, non-expedited requests, was less than 20 days.**

## **BACKLOGS AND “TEN OLDEST” REQUESTS, APPEALS AND CONSULTATIONS:**

2. 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. 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 Years 2012 and 2013 when completing this section of your Chief FOIA Officer Report.

### **BACKLOGS**

- a. If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?

**The PBGC did not have a backlog of requests at the close of Fiscal Year 2012. However, in Fiscal Year 2013, PBGC reported a backlog of eight requests.**

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal Year 2012?

**The PBGC did not have a backlog of requests at the close of Fiscal Year 2012. However, in Fiscal Year 2013, PBGC reported a backlog of one appeal.**

### **TEN OLDEST REQUESTS**

- c. In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?

**Yes. In Fiscal Year 2013, PBGC closed all of the requests that were received in Fiscal Year 2012.**

- d. 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 2012 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 two of them, you should note that you closed two out of seven "oldest" requests.

N/A.

#### TEN OLDEST APPEALS

e. In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?

**N/A. The PBGC did not have any appeals pending at the end of Fiscal Year 2012.**

f. If no, please provide the number of these appeals your agency was able to close, as well as the number of appeals your agency had in Section VI.C.(5) of your Fiscal Year 2012 Annual FOIA Report.

N/A.

#### TEN OLDEST CONSULTATIONS

g. In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?

N/A.

h. If no, please provide the number of these consultations your agency did close, as well as the number of pending consultations your agency listed in Section XII.C. of your Fiscal Year 2012 Annual FOIA Report.

**The PBGC did not receive any consultations in Fiscal Year 2012 and therefore, no consultations were pending as of the end of Fiscal Year 2012.**

#### REASONS FOR ANY BACKLOGS:

3. If you answered "no" to any of the questions in item 2 above, describe why your agency was not able to reduce backlogs and/or close the ten oldest pending requests, appeals, and consultations. In doing so, answer the following questions then include any additional explanation:



#### REQUEST AND/OR APPEAL BACKLOG

- a. Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?

**No.**

- b. Was the lack of a reduction in the request and/or appeal backlog caused by a loss of staff?

**Conceivably. At the end of FY2012, the PBGC eliminated three contract positions from the Disclosure Division due to budget restraints. This loss could have been a factor in the backlog increase.**

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

**Yes. In January 2013, the PBGC began accepting requests electronically. Since that time, the numbers of complex requests, resulting in voluminous responsive documents, have significantly increased.**

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

**There were no other known causes of the request backlog increasing from 0 to 8 and the appeal backlog increasing from 0 to 2.**

#### “TEN OLDEST” NOT CLOSED

- e. Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2012.

**N/A.**

- f. If your agency was unable to close any of its ten oldest requests or appeals 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.

**N/A.**



**PLANS FOR CLOSING OF TEN OLDEST PENDING REQUESTS, APPEALS, AND CONSULTATIONS AND REDUCING BACKLOGS:**

Given the importance of these milestones, it is critical that Chief FOIA Officers assess the causes for not achieving success and create plans to address them.

4. If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” requests, appeals, and consultations during Fiscal Year 2014.

**N/A.**

5. If your agency had a backlog of more than 1000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.

**N/A.**

**INTERIM RESPONSES:**

OIP has issued guidance encouraging agencies to make interim releases whenever they are working on requests that involve a voluminous amount of material or require searches in multiple locations. By providing rolling releases to requesters agencies facilitate access to the requested information.

6. Does your agency have a system in place to provide interim responses to requesters when appropriate?

**Yes.**

7. If your agency had a backlog in Fiscal Year 2013, please provide an estimate of the number or percentage of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

**~50%.**

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**USE OF FOIA’S LAW ENFORCEMENT “EXCLUSIONS”**

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In order to increase transparency regarding the use of the FOIA’s statutory law enforcement exclusions, which authorize agencies under certain exceptional



circumstances to “treat the records as not subject to the requirements of [the FOIA],” 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

1. Did your agency invoke a statutory exclusion during Fiscal Year 2013?

**No.**

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

**No.**

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### SPOTLIGHT ON SUCCESS

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Out of all the activities undertaken by your agency since March 2013 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 a key achievement. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

**In October of Fiscal Year 2013, the PBGC executed a Memorandum of Understanding with the Environmental Protection Agency and joined the consortium of other agencies for the use of FOIAonline.**

- **FOIAonline has created efficiency and consistency in the way PBGC processes and responds to FOIA requests.**
- **The system is a multi-tenant, online FOIA repository and secure agency processing system to be used by partner agencies across the federal government.**
- **The public will benefit from submitting FOIA requests to fewer government websites, tracking the status of requests, and searching and reviewing public requests and agency responses.**
- **PBGC will benefit from the system’s ability to generate reports and store FOIA requests and responses in a repository for reuse.**



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