



PENSION BENEFIT GUARANTY CORPORATION

2021

CHIEF FOIA OFFICER'S REPORT

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## Table of Contents

<b>ABOUT PBGC.....</b>	<b>4</b>
<b>OUR CUSTOMERS.....</b>	<b>4</b>
<b>SECTION I: STEPS TAKEN TO APPLY THE PRESUMPTION OF OPENNESS.....</b>	<b>6</b>
<b>A. FOIA Leadership.....</b>	<b>6</b>
<b>B. FOIA Training.....</b>	<b>6</b>
<b>C. Outreach.....</b>	<b>9</b>
<b>D. Other Initiatives.....</b>	<b>10</b>
<b>SECTION II: STEPS TAKEN TO ENSURE THAT YOUR AGENCY HAS AN EFFECTIVE SYSTEM IN PLACE FOR RESPONDING TO REQUESTS.....</b>	<b>12</b>
<b>SECTION III: STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES.....</b>	<b>17</b>
<b>SECTION IV: STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY.....</b>	<b>19</b>
<b>SECTION V: STEPS TAKEN TO IMPROVE TIMELINESS IN RESPONDING TO REQUESTS AND REDUCING BACKLOGS.....</b>	<b>21</b>
<b>A. Simple Track.....</b>	<b>21</b>
<b>B. Backlogs.....</b>	<b>22</b>
<b>BACKLOGGED REQUESTS.....</b>	<b>22</b>
<b>C. Backlog Reduction Plans.....</b>	<b>24</b>
<b>D. Status of Oldest Requests, Appeals, and Consultations.....</b>	<b>24</b>
<b>OLDEST REQUESTS.....</b>	<b>25</b>
<b>TEN OLDEST APPEALS.....</b>	<b>25</b>
<b>TEN OLDEST CONSULTATIONS.....</b>	<b>26</b>
<b>E. Additional Information on Ten Oldest Requests, Appeals, and Consultations &amp; Plans.....</b>	<b>26</b>
<b>F. Success Stories.....</b>	<b>27</b>

## **ABOUT PBGC**

The Pension Benefit Guaranty Corporation (PBGC or the Corporation) is a federal corporation established under the Employee Retirement Income Security Act (ERISA) of 1974, as amended. PBGC was created 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. The Corporation collects insurance premiums from employers that sponsor insured pension plans, earns money from investments and manages funds from pension plans it takes over.

PBGC protects the retirement incomes of more than 34 million American workers in nearly 24,000 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. The maximum pension benefit guaranteed by PBGC is set by law and adjusted yearly. For single-employer plans that end in 2020, the maximum guarantee for workers who retire at age 65 is \$69,750.00 yearly (\$5812.50 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>**

PBGC operates two separate insurance programs for defined benefit plans. PBGC's single- employer program guarantees basic pension benefits when covered underfunded plans terminate. By contrast, in the multiemployer program, the insured event is plan insolvency.

Today, PBGC has responsibility for the pensions of 34 million people in approximately 24,500 single- employer and multiemployer pension plans that could not pay promised benefits. PBGC pays approximately \$6.273 billion annually in pension benefits, either directly or through financial assistance to multiemployer plans.

In accordance with its Customer Service Plan, PBGC serves a range of customers with disparate interests and expectations. First are the estimated 1.5 million people whose present and future pension benefits depend on the Corporation. Participants in 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

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<sup>1</sup> See PBGC Customer Service Fact Sheet: <https://www.pbgc.gov/about/factsheets>. If the link does not work, please cut and paste into your browser.



professionals who assist them. They expect PBGC to promptly and accurately process their premium payments, dispense reliable advice and rulings, and resolve issues affecting their plans quickly and responsively.

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

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

The guiding principle underlying DOJ's [FOIA Guidelines](#) is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

### **A. FOIA Leadership**

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. See 5 U.S.C. §552(j)(1)(2018). Is your agency's Chief FOIA Officer at this level?

**Yes. The Chief FOIA Officer is a Senior Level Leader who also serves as a Department Director, Deputy General Counsel, Senior Agency Official for Privacy (SAOP) and the Designated Agency Ethics Official (DAEO).**

2. Please provide the name and title of your agency's Chief FOIA Officer.

**C. Paul Chalmers, Deputy General Counsel, Chief FOIA Officer and SAOP.**

### **B. FOIA Training**

3. The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. §552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.

**At PBGC, every employee is responsible for ensuring compliance with the FOIA and working to fulfill the goals of the Open Government Initiative in the following ways: transparency, participation, and collaboration. In calendar year 2020, PBGC held approximately 32 conferences, discussions and/or training sessions. They are described below:**



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<i>Training Sessions</i>	<i>Topics Covered</i>	<i>Dates Administered</i>
<b>Division (Internal) Training</b>	StoneFax training	March 26, 2020
The Division conducts periodic training on a variety of topics to ensure efficient and accurate processing of FOIA requests.	Remote Faxing and Electronic Delivery of FOIA Determination	April 1, 2020
	Interface between Privacy and FOIA	April 21, 2020
	First-Party requests	July 21, 2020
	Building Consistency	August 21, 2020
	Privacy Act Exceptions: Routine Uses	August 25, 2020
	First-party and Third-party Access Requests	August 25, 2020
	Consent Rule	August 25, 2020
	Case File Review	September 17, 2020
	Introduction to Income Verification	September 26, 2020
	RapidRedact/ Processing IV	September 27, 2020
	Privacy Act Routine Uses Regarding QDRO with PBGC Appeals Office	October 8, 2020
	Privacy Act Exceptions	October 15, 2020
	Request Scoping & Determination of Fees	November 12, 2020
	Fees & Delinquent Requesters	December 02, 2020
	Discussion of FY 2021 Disclosure Business Model	October 20, 2020; October 29, 2020
<b>Corporate (agency-wide) Training:</b>  The Division conducts agency-wide corporate training. Training is provided at all new employee orientations and is also targeted	Overview of FOIA to PBGC's New Hire	April 27, 2020; July 15, 2020; August 12, 2020; September 23, 2020; December 16, 2020; January 27, 2021
	DOJ's FOIA for Professionals	Electronically Available on Agency's FedTalent Platform (required for all Disclosure Division New Hires)
	DOJ's FOIA for Federal Employees	Electronically Available on Agency's FedTalent Platform (required for all Disclosure Division New Hires)



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toward specific program offices.	FOIA Exemption (b)(2) and (b)(5)	September 15, 2020
	Learning to use MS Teams	September 18, 2020
	WebTA & IT/Scty training	September 19, 2020
	Privacy Act	September 24, 2020
	Right to Access	September 25, 2020
	Privacy Act Exceptions and QDRO Processing with Participant Services Department	November 16, 2020
	Discussion regarding “What is a Record?” Processing a voluminous FOIA request and planning a strategic search procedure with Corporate Finance and Restructuring Department	November 17, 2020

4. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?

**Yes**

5. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

**The Disclosure Division’s resilience was tested with the unprecedented hurdles caused by the COVID-19 pandemic. In addition to implementing a remote and mostly digital and electronic disclosure operation, PBGC received over 60% more requests compared to Fiscal Year 2019. To keep up with the volume, training was one of the initiatives integral to keeping up with the tempo caused by acute, unforeseen staffing losses and the impact of the pandemic on PBGC’s requester population.**

**Leveraging PBGC’s culture that “FOIA is everyone’s responsibility...” allowed the Disclosure Division to develop and conduct over twenty-five Ad Hoc training events and programmatic discussions. These sessions were focused on real and perceived challenging topics and operational methods. All training was conducted remotely, leveraging technology in creative ways. Specifically, focused and remote training led to minimal disruptions to disclosure services while at**

the same ensuring the appropriate precautionary measures to keep our employees safe.

**PBGC realized a myriad of unforeseen benefits of electronic/remote operations and digital learning. First, the Disclosure Division benefited from electronic training because it enabled efficiency and effectiveness by fostering availability, development and accessibility to instructor-led and independent learning modules. Many of the training topics expounded on interpretative unity on request scope, record searches, application of exemptions/exceptions and exclusions as they relate to various forms of Privacy/FOIA requests that are both federally universal and PBGC specific. The specific topics are listed in the above chart in Section B.3.**

6. Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

**PBGC estimates 100% of its FOIA professionals and staff with FOIA responsibilities attended substantive FOIA training during this reporting period.**

7. 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.

**N/A. More than 80% of PBGC’s FOIA professionals attended training.**

### **C. Outreach**

8. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

**Yes. PBGC routinely engaged in outreach and dialogue with the requester community and public/private groups regarding its administration of the FOIA, throughout this reporting period. The Disclosure Division’s staff assisted the requester community by communicating with requesters through phone and email, responding to status requests, providing instructions on how to make**

FOIA requests and directing inquiries remaining after the Disclosure Division's role completed.

Due to the COVID-19 pandemic, the Disclosure Division experienced an increase in phone calls from PBGC's participant population, beneficiaries, third-party requesters, pension groups and internal end-users. Many of these calls related to the FOIA process, pension benefits or information regarding recently deceased participants.

This dialogue has led to improvements in PBGC's FOIA administration, enhancing PBGC's citizen-centered and customer-friendly service. The most significant improvement was the result of making electronic delivery of disclosure determinations optional to requesters who might have normally not been inclined to use technology; the Disclosure Division is lauded for taking additional steps to create access for requesters and make hard-copy operations and deliverables possible for approximately 5% of requesters without internet or electronic access. PBGC's disclosure operation is centralized, and as a result of the pandemic, is 100% remote and 95% digital and electronic.

#### **D. Other Initiatives**

9. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff.

**PBGC has undertaken steps to inform non-FOIA professionals of their obligations under the FOIA. PBGC provides FOIA training to all new hires (federal employees and contractor employees) during their initial "New Hire" orientation. In addition, PBGC trains contractor employees in its Customer Call Center and Document Management Centers on how to respond to customers seeking specific information that is likely protected by the FOIA and/or interfaces with the Privacy Act. The Disclosure Division works concurrently with the Field Benefit Administrators, the Customer Call Center, and the Document Management Centers, responding to high-volume requests, such as income verification requests from PBGC participants, beneficiaries and third-parties. As a result, these non-FOIA personnel are able to identify and appropriately re-direct various types of FOIA and Privacy Act requests that they routinely encounter.**

**PBGC's FOIA personnel frequently meets with non-FOIA personnel to assist with processing a FOIA request. This collaboration includes discussing the statutory requirements of the Privacy Act and FOIA. FOIA personnel often**



**facilitate communication with requesters to assist the non-FOIA personnel to conduct an adequate search of records.**

10. Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

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

DOJ's [FOIA Guidelines](#) emphasize 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 describes your agency's efforts in this area.

1. For Fiscal Year 2020, 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 2020 Annual FOIA Report.

**3.0 days.**

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2020 Annual FOIA Report, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

**N/A. PBGC's average number of days to adjudicate requests for expedited processing was less than ten calendar days.**

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc.

Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

**The Disclosure Division conducts a self-assessment of its FOIA program yearly. The Division reviews the Annual Report and raw data to determine timeliness in responding to requests to improve efficiency. The Disclosure Division continues its consideration of the 2017 FOIA Self-Assessment Toolkit to formulate and refine its business/workflow model each fiscal year in response to emerging**

**ideas. The new business model includes elements of organizational well-being, resiliency, and polarities by implementing “and” and “or” thinking to workflows and processing procedures.**

4. Standard Operating Procedures (SOPs): Having SOPs can improve the consistency and quality of an agency’s FOIA process. In addition, describing an agency’s standard practices for handling FOIA requests on agency FOIA websites can help requesters better understand how their request will be handled.

a) Does your agency have SOPs that outline general processes for handling FOIA requests and appeals?

**Yes.**

b) If not, does your agency have plans to create FOIA SOPs?

**N/A. PBGC has SOPs that outline general processes for handling FOIA requests and appeals.**

c) If yes, how often are they reviewed/updated to account for changes in law, best practices, and technology?

**The Disclosure Division reviews FOIA SOPs as needed and at least every fiscal year; reviews and updates are made routinely as necessary.**

d) In addition to having SOPs, does your agency post or otherwise describe your standard processes for handling requests on your website?

**Yes.**

5. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency’s FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency’s FOIA Public Liaison during FY 2020 (please provide a total number or an estimate of the number).

**The Disclosure Division estimates that requesters sought assistance from one of its two FOIA Public Liaisons no more than five times during this reporting period.**

6. Does your agency frequently receive common categories of first-party requests? If so, please describe the types of requests and if your agency has explored establishing alternative means of access to these records outside of the FOIA process?

**PBGC frequently receives common categories of first-party requests. Many requesters seek records pertaining to pension eligibility, income verifications, pension beneficiary designations, benefit election forms, agency data supporting**

benefit determinations and settlement and trusteeship working group agreements. Most responsive records contain sensitive personal privacy information and/or commercial/financial information. Because of the specificity of the purpose and interface between the FOIA and the Privacy Act, alternative means of access, proactively or discretionarily, outside of the FOIA process, are limited. Often, these kinds of deliverables require individual review by trained Government Information Specialists. Nonetheless, PBGC makes available a myriad of first-party information via [www.pbgc.gov/mypba](http://www.pbgc.gov/mypba), postings in the Corporation's Reading Room and search engines on its public-facing websites, such as:

1. <https://www.pbgc.gov/find-trusteed-pension-plan>; and
2. <https://www.pbgc.gov/search-insured-plans>.

Also, common categories of first-party requests are available outside of the FOIA process through PBGC's Office of Benefit Administration Departments Fulfillment Service, which delivers participants' pension-specific records in advance of receipt of a first-party requests.

7. The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?

**Yes.**

8. Please explain how your agency worked to mitigate the impact of the COVID-19 pandemic on FOIA processing. Examples could include, but are not limited to: altering workflows, implementing new technology, providing notices and instructions or otherwise communicating directly with requesters.

**The Disclosure Division's resilience was tested with the unprecedented hurdles caused by the COVID-19 pandemic. In addition to facing the challenges of implementing technology, staffing and maintaining morale, PBGC received over 60% more requests compared to Fiscal Year 2019. In addition to altering workflows, using new technologies, such as electronic faxing and Microsoft Teams, the Disclosure Division quickly implemented a remote and mostly digital and electronic disclosure operation. The impacts, changes and remote strategies were broadcast, in part, verbally with requesters and making the FOIA acknowledgement letter specific to the request, more comprehensive and instructive. To keep up with the increased volume of requests, training and robust onboarding were two of the most significant initiatives.**

Creatively focused training and streamlined onboarding were integral to keeping up with the tempo caused by acute, unforeseen staffing losses and the impact of the pandemic on PBGC's requester population. The COVID-19 pandemic forced the Disclosure Division to implement a 95% digital and electronic disclosure operation. However, the Disclosure Division continues to provide quality services to FOIA requesters. Upon receipt of a new FOIA or Privacy Act request, the Disclosure Division notifies the requester that hardcopy records may not be available. FOIA personnel make every attempt to respond electronically to requests. In the event a requester does not have digital access, the Disclosure Division makes a hard-copy deliverable available.

9. Best practices used to ensure that your FOIA system operates efficiently and effectively. Any challenges your agency faces in this area.

For years now, PBGC has socialized numerous best practices to ensure that its FOIA system operates efficiently and effectively. These best practices have been integral to mitigating challenges relating to the adequacy of searches, performance, training and outreach. Some of these areas are describe below:

- **Senior Leader Support of the Division**

The General Counsel and the Deputy General Counsel have supported the Disclosure Division's search initiatives by engaging their peers and promoting compliance at the highest levels of the corporation.

- **Use of Technology (ie. FOIAonline, SharePoint)**

The Disclosure Division currently uses FOIAonline as its workflow system, which allows requesters to submit requests directly into the workflow system. FOIAonline also works as a repository for information. As such, trends and repeat requests are easily captured. Unfortunately, in Fiscal Year 2020, shortly before the end of the fiscal year, the system suffered severe degradation. However, fortunately, the Disclosure Division was able to create a stop-gap workflow by creating a staging area, using SharePoint to document case work and close out the open FOIA requests. The Division also has read-only access to multiple systems which allows us to quickly perform the search for certain types of requests.

- **Comprehensive Training**

The Disclosure Division conducts a FOIA overview to all PBGC new hires. It also conducts training to program offices before issuing search requests for the first time or by request. Further it conducts a structured two-week

onboarding plan for all Disclosure Division new hires, consisting of instructor-led and digital training formats.

- **Performance Management**

The Disclosure Division interactively achieved clear objectives and goals in the form of individual performance plans. Employees are held accountable for their performance in four areas that are weighted by grade level: 1) Provides timely and concise responses...; 2) Provides quality analysis...; 3) Team-Work; and 4) Customer Service. The Disclosure Officer conducts quarterly performance reviews using objective performance data. In addition to an annual performance evaluation, employees are regularly recognized for their achievements throughout the year, usually during weekly staff meetings. In Fiscal Year 2020, PBGC implemented a two-tier performance system: Successful or Unsuccessful.

- **Case Management**

A Government Information Specialist must conduct searches or send search requests to the program office no later than the 5<sup>th</sup> day after the case has been assigned. Record custodians and supervisors must sign the search form upon completion. After review and redactions are applied and reviewed again the Government Information Specialist drafts the determination letter. Once the draft determination letter and the responsive letter are reviewed again, the package is finalized. All determination packages are reviewed a minimum of two times.

- **Best Answer Approach**

The Disclosure Division recognizes that there may be multiple answers or strategies to respond to any one request. The “Best Answer Approach” implies an understanding of the records obtained from the appropriate subject matter expert/record originator, and the disclosure must align with applicable statutes and case law with forethought on how the disclosure package would evolve if appealed. The Disclosure Division endeavors to respond with the best answer approach, even if the answer comes from someone other than to whom the case is assigned. This approach encourages research, communication and collaboration.

## SECTION III: STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

The Department of Justice has long 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.

1. Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links<sup>2</sup> to these materials as well.
  - **PBGC's Annual Reports:** <https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2020.pdf>;
  - **Guidance for Practitioner's and Employers:** <https://www.pbgc.gov/prac/staff-responses-prac-questions>;
  - **Latest News from PBGC:** <https://www.pbgc.gov/stay-informed>;
  - **PBGC's Insurance Coverage:** <https://www.pbgc.gov/prac/other-guidance/insurance-coverage>;
  - **PBGCs Recent News Releases:** <https://www.pbgc.gov/news-policy>;
  - **PBGC Newsletters and Publications:** <https://www.pbgc.gov/news/press>; and
  - **Finding Insured Pension Plans:** <https://www.pbgc.gov/search-insured-plans>.

**PBGC uses both Facebook and Twitter to notify the public of recently released information.**

2. 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?

**Yes, PBGC is taking steps to make posted information more useful to the public and to its participants. The Corporation's website is appropriately indexed; please see: <https://www.pbgc.gov/>.**

3. If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-

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<sup>2</sup> If the link does not work, please cut and paste into your browser.



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actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.

**PBGC uses public, user feedback and web analytics to improve communication and outreach efforts.**

4. Optional -- Please describe:

- Best practices used to improve proactive disclosures
- Any challenges your agency faces in this area

**PBGC is constantly reviewing and improving content on PBGC.gov by using web analytics and customer surveys to determine what PBGC customers are looking for. PBGC uses this data to evaluate and update its web design to accommodate popular actions and tasks.**

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

A key component of FOIA administration is using technology to make information more accessible. 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.

1. Please briefly describe the types of technology your agency uses to support your FOIA program. In addition, please highlight if your agency is leveraging or exploring any new technology that you have not previously reported. If so, please describe the type of technology.

**PBGC uses FOIAonline as its tracking and processing tool to support its FOIA program. PBGC is always on the look out for emerging technology to facilitate its FOIA administration.**

2. OIP issued [guidance](#) in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

**Yes, PBGC reviewed its FOIA websites during this reporting period to ensure it addressed the elements noted in the guidance.**

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2020?

**No, PBGC posted two of the four quarterly reports for Fiscal Year 2020.**

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 2021.

**PBGC's Disclosure Division attempted but did not successfully post all quarterly reports for 2020. This oversight was due to short-staffing because of death, attrition and retirement. Currently, the division is onboarding and training new employees; collateral reporting requirements will resume.**



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5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2019 Annual FOIA Report and, if available, for your agency's Fiscal Year 2020 Annual FOIA Report.

**The raw data from FY 2019 Annual FOIA Report can be found here:**

<https://www.pbgc.gov/about/pg/footer/foia/foia-annual-reports>

6. Optional -- Please describe:
  - Best practices used in greater utilizing technology
  - Any challenges your agency faces in this area



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

The Department of Justice has 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 FY 2019 and 2020 Annual FOIA Reports.

### **A. 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?

**Yes.**

2. If your agency uses a separate track for simple requests, according to Annual FOIA Report section VII.A, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2020?

**Yes, the average number of days to process simple requests in Fiscal Year 2020 was 15.51 days.**

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2020 that were placed in your simple track. Please use the following calculation based on the data from your Annual FOIA Report: (processed simple requests from Section VII.C.1) *divided by* (requests processed from Section V.A.) x 100.

**PBGC estimates the percentage of requests processed in Fiscal Year 2020 and placed in the simple track was ± 70%.**



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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?

**N/A. PBGC tracks simple request separately. However, the average number of days to process all non-expedited requests was twenty working days or fewer.**

## **B. 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 2019 and Fiscal Year 2020 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 2020, according to Annual FOIA Report Section XII.A, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?

**N/A. PBGC did not have a backlog of requests at the close of Fiscal Year 2020; PBGC did not have a backlog of requests at the close of Fiscal Year 2019.**

6. If not, according to Annual FOIA Report Section V.A, did your agency process more requests during Fiscal Year 2020 than it did during Fiscal Year 2019?

**N/A.**

7. If your agency's request backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to 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.



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1200 K Street, N.W., Washington, D.C. 20005-4026

- Any other reasons – please briefly describe or provide examples when possible.

**N/A. PBGC has not had a backlog for the past six years, nor for Fiscal Year 2020. However, the Disclosure Division experienced all the above-mentioned factors.**

8. 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 2020. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) *divided by* (requests received from Section V.A) x 100. If your agency has no request backlog, please answer with “N/A.”

**N/A. PBGC did not have a backlog at the close of Fiscal Year 2020.**

#### **BACKLOGGED APPEALS**

9. If your agency had a backlog of appeals at the close of Fiscal Year 2020, according to Section XII.A of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2019?

**N/A. PBGC did not have a backlog of appeals at the close of Fiscal Year 2020; PBGC did not have a backlog of appeals at the close of Fiscal Year 2019.**

10. If not, according to section VI.A of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2020 than it did during Fiscal Year 2019?

**N/A. PBGC did not have a backlog of appeals in 2020 nor in 2019.**

11. If your agency’s appeal backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to reduce its 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.

**N/A.**



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1200 K Street, N.W., Washington, D.C. 20005-4026

12. 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 2020. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) *divided by* (appeals received from Section VI.A) x 100. If your agency did not receive any appeals in Fiscal Year 2020 and/or has no appeal backlog, please answer with "N/A."

N/A.

### C. Backlog Reduction Plans

13. In the 2020 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2019 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2020?

**N/A. PBGC did not have a backlog in Fiscal Year 2020; PBGC was not required to create a backlog reduction plan in accordance with 2019 guidelines.**

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2020, please explain your agency's plan to reduce this backlog during Fiscal Year 2021.

**N/A. PBGC did not have a backlog in Fiscal Year 2020. PBGC will continue implementing its corporate-initiated annual backlog reduction plan as described in Section II.5.D.**

### D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2019 and Fiscal Year 2020 when completing this section of your Chief FOIA Officer Report.



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## OLDEST REQUESTS

15. In Fiscal Year 2020, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2019 Annual FOIA Report?

**Yes, PBGC closed the ten oldest requests that were pending at the end of Fiscal Year 2019.**

16. 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 2019 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

**N/A. PBGC closed its ten oldest requests.**

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

**The Disclosure Division focused on immediately triaging incoming FOIA and Privacy Act requests for action. Triage requests allows FOIA personnel to send requests for searches to other PBGC departments quickly. The Disclosure Division is also able to resolve any obstacles that might delay processing a request. Disclosure Division personnel communicated with requesters immediately upon receipt of requests to clarify requests and address any concerns. In Fiscal Year 2020, even amid a pandemic, the Disclosure Division managed to end the fiscal year with no backlog, receiving 3,495 requests and processing 3,511 requests.**

## TEN OLDEST APPEALS

18. In Fiscal Year 2020, did your agency close the ten oldest appeals that were reported pending in Section VII.C.5. of your Fiscal Year 2019 Annual FOIA Report?

**Yes, PBGC closed 1 of 1 pending requests from FY19.**

19. 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 2019 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

**N/A.**



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

**PBGC has routinely closed all appeals within the statutory time limit.**

## TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2020, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2019 Annual FOIA Report?

**N/A. PBGC did not have any consultation at the close of Fiscal Year 2020.**

22. 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 2019 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

**N/A.**

## E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2019.

**N/A. PBGC did not face any obstacles in closing its ten oldest requests, appeals or consultations.**

24. 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.

**N/A. PBGC closed its ten oldest requests and appeals.**

25. 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 2021.

**N/A. PBGC closed its ten oldest requests and appeals.**



Pension Benefit Guaranty Corporation  
1200 K Street, N.W., Washington, D.C. 20005-4026

## F. Success Stories

Out of all the activities undertaken by your agency since March 2020 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 but should not be something that you have reported in a prior year. As noted above, OIP will highlight these agency success stories during Sunshine Week. 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.

**Onboarding & Technology:** The Disclosure Division onboarded four federal employees and two attorney contractors. The hiring and training process was entirely virtual during the pandemic. PBGC processed an additional 1,147 FOIA requests in Fiscal Year 2020 than it processed in Fiscal Year 2019. Sudden and total telework significantly altered all of the Division's workflow. Then the unthinkable happened: days before the end of the Fiscal Year 2020, the Division's electronic workflow platform suffered severe degradation and completely shut down. The Disclosure Division quickly created a stop-gap solution to organize, store closed-out requests and associated responsive documents.

**Customer Service, Resiliency & Transformation:** By implementing a completely remote operation, the Division established better connections with its requesters. The Disclosure Division has become a part of PBGC's frontline of public inquiries because of its familiarity with agency contacts, processes and practices, even after the FOIA matter has completed. In addition to providing instructions and information about the FOIA process, we have listened to the suffering caused by the pandemic. Our service has become crucial in response to the increase in requester interaction due to the Pandemic.

**Training, Coaching & Teamwork:** The Division collaborated with PBGC's Training Institute. Together, the offices facilitated executive/leadership coaching for leaders involved in the FOIA process and uploaded two Department of Justice training modules, "FOIA for Professionals" and "FOIA for Federal Employees," to PBGC's FedTalent training platform. Just when pessimism was socialized about the inability to end the year with no backlog, employees across the Office of the General Counsel stepped up to assist, and for the sixth straight year, Fiscal Year 2020 ended with no backlog; this was a remarkable accomplishment, but doing so amid a pandemic, was indeed extraordinary!



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1200 K Street, N.W., Washington, D.C. 20005-4026

**The Division conducted more than 30 training sessions and programmatic discussions to division staff and non-FOIA professionals on a variety of topics. The Division received only 15 appeals; none were completely overturned. The division was dogged by acute staffing losses, i.e., retirement, death, and attrition. Incredibly, the Disclosure Division celebrated extraordinary successes during unprecedented challenges of remote onboarding of new employees who have only interacted virtually. Challenges such as disconnectedness, isolation and many others, were accomplished through teamwork, resilience, intentional relatedness, and creating a new normal of organizational well-being.**