



PENSION BENEFIT GUARANTY CORPORATION

2020

CHIEF FOIA OFFICER'S REPORT

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

The PBGC protects the retirement incomes of more than 40 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 plans that end in 2019, the maximum guarantee for workers who retire at age 65 is \$67,295 yearly (\$5,607.95 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 CUSTOMERS¹

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. In accordance with its Customer Service Plan, PBGC serves a range of customers with disparate interests and expectations.

Today, PBGC has responsibility for the pensions of 34 million people in about 25,000 single-employer and multiemployer pension plans that could not pay promised benefits. PBGC pays approximately \$5.8 billion annually in pension benefits, either directly or through financial assistance to multiemployer plans.

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 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, Media, PBGC Employees and Contractors.

¹See PBGC Customer Service Fact Sheet: <https://www.pbgc.gov/about/factsheets/page/customer-service>

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.

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 least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above 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.

Margaret Drake, Acting Deputy General Counsel, Acting Chief FOIA Officer and Acting SAOP.

B. FOIA TRAINING:

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

Yes, the PBGC's FOIA professionals and personnel who have FOIA responsibilities attended substantive FOIA training and/or conferences during this reporting period.

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

At PBGC, every employee is responsible for ensuring compliance with the FOIA and working to fulfill the goals of the Open Government Initiative: transparency, participation and collaboration. In Fiscal Year 2019, the PBGC held 37 conferences and/or training sessions, an increase from the 34 held the previous year. They are described below:

<i>Training Sessions</i>	<i>Topics Covered</i>	<i>Dates Administered</i>
Division (Internal) Training The Division conducts periodic training on a variety of topics to ensure efficient and accurate processing of FOIA requests.	<ul style="list-style-type: none"> • Discussion on Use of Social Security Numbers 	April 3, 2019
	<ul style="list-style-type: none"> • Discussion on Clarity, Compliance and Completeness 	April 24, 2019, May 8, 2019, May 26, 2019
	<ul style="list-style-type: none"> • Discussion on Restructuring Process 	May 13, 2019
	<ul style="list-style-type: none"> • Discussion on Intake Changes/Process 	June 5, 2019
	<ul style="list-style-type: none"> • Onboarding Training for New DD Employees 	June 24 – July 5, 2019, July 8 – 19, 2019
	<ul style="list-style-type: none"> • Discussion on Privacy Act Routine Use for IVLs 	July 3, 2019
	<ul style="list-style-type: none"> • Discussion on Records Search - Privacy Act v. FOIA 	July 10, 2019
	<ul style="list-style-type: none"> • Discussion on Supreme Court Decision Regarding FOIA Exemption 4 	July 17, 2019
	<ul style="list-style-type: none"> • Interpreter Service Training 	July 24, 2019
	<ul style="list-style-type: none"> • Discussion on Tips for Processing FOIA Requests 	July 31, 2019
	<ul style="list-style-type: none"> • Onboarding Training for New Contractor Employees 	August 5 – 16, 2019, October 22 – November 1, 2019, November 4 – 15, 2019
	<ul style="list-style-type: none"> • Discussion on Backlog Reduction Planning 	August 14, 2019
	<ul style="list-style-type: none"> • Discussion on DD’s Business Model 	October 1, 2019, October 30, 2019, November 18, 2019
	<ul style="list-style-type: none"> • Discussion on Court’s Decision Regarding Burka Four-Factor Test 	December 4, 2019
Corporate (agency-wide) Training: The Division conducts agency-wide corporate training. Training is provided at all new employee orientations and is also targeted toward specific program offices.	<ul style="list-style-type: none"> • PBGC New Hire Training 	January 23, 2019, March 20, 2019, June 19, 2019, September 18; 2019, December 18, 2019
	<ul style="list-style-type: none"> • Outreach and Awareness: Discussion on FOIA Exemptions and Supreme Court Decision Regarding FOIA Exemption (b)(2) High and Low 	March 15, 2019
	<ul style="list-style-type: none"> • Outreach and Awareness: FOIA Briefings – Office of the Director 	May 23, 2019, September 4, 2019
	<ul style="list-style-type: none"> • Outreach and Awareness: FOIA Overview - Procurement Department 	May 30, 2019
	<ul style="list-style-type: none"> • Outreach and Awareness: FOIA Liaison Training – Office of the Director 	August 30, 2019
	<ul style="list-style-type: none"> • Customer Contact Center’s FOIA and the Privacy Act Training 	January 31, 2019, April 9, 2019; June 20, 2019, August 6, 2019

	<ul style="list-style-type: none"> • FOIA Overview for Proposed Rule 	November 6, 2019
	<ul style="list-style-type: none"> • Discussion on Third-Party Requests for Proposed Rule 	December 11, 2019

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

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

6. 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:

7. 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 dialog, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency’s FOIA administration.

Yes. The PBGC routinely engaged in outreach and dialogue with the requester community and public/private groups regarding its administration of the FOIA, throughout the fiscal year. The Disclosure Division’s staff assisted the requester community by answering questions and helping requesters navigate the FOIA process. This year, the PBGC’s efforts especially focused on shaping the request scope at the Intake Triage stage.

The public is often unaware that the PBGC is a federal agency. Therefore, training and outreach efforts in pivotal to efficiency. In response to numerous requests, the Disclosure Division contacted requesters to discuss the scope of submitted requests. When necessary, the Disclosure Division contacts other PBGC offices to collaborate too, thus ensuring extraordinary customer-centered service. One request sought participant-level data for morbidity projection purposes; the draft response had clear grounds for

denying disclosure. Instead of denying the request on its face, the PBGC contacted the requester to discuss privacy concerns. By contacting the requester, coupled with internal collaborations (i.e. programmatic subject matter experts, the Privacy and Ethics offices, etc.), the PBGC helped the requester reformulate his request. These contacts led to robust discussions about how and which datasets could be logically gathered and ultimately released. The Disclosure Division issued a disclosure determination on the reformulated request, disclosing data at an aggregate level so no one participant was identified. The PBGC believes the quality of its outreach and dialogue can be measured by the number of appeals received and the number of appeals granted.

Additionally, the PBGC actively engaged its participants, who make up more than 80% of the requester population, through the implementation of a corporate communications program, including: websites, newsletters, subscriptions and social media. Please see examples of PBGC's outreach activities, currently posted on pbgc.gov, by clicking on the links below²:

1) PBGC Customer Service Plan:

<http://www.pbgc.gov/Documents/Customer-Service-Plan-2014.pdf>, emphasizing that in all of our activities and decisions we incorporate the question "What impact will this have on the customer?"

2) New To PBGC- A Beginner's Reference Guide:

<http://www.pbgc.gov/about/new-to-pbgc.html>, offering an overview of basic definitions, information available on-line, and multiple ways to navigate the website, thus allowing for more informed FOIA requests.

3) Frequently Asked Questions: <http://www.pbgc.gov/about/faq.html>, offering information tailored to workers, retirees, practitioners, the press and policymakers, thus sparing them the need to file a FOIA request.

4) PBGC Initiative on Open Government:

<http://www.pbgc.gov/open/index.html>, highlighting our commitment to collaborate with stakeholders by including important PBGC data sets that increase transparency, accountability and improve public awareness of our operations.

D. OTHER INITIATIVES:

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role

² If the links do not work, please cut and paste in your web browser.

in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

The PBGC has undertaken steps to inform non-FOIA professionals of their obligations under the FOIA. The PBGC provides FOIA training to all new hires (federal employees and contractor employees) during their orientation. In addition, the 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 the Privacy Act. The Division works concurrently with the Field Benefit Administrators, the Customer Call Center, and the Document Management Centers to responds to high-volume requests, such as income verification requests from PBGC participants. 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.

In 2016, the PBGC carefully reviewed the Department’s publicized FOIA-related performance standards for employees with roles in administering the FOIA, including non-FOIA professionals. As part of PBGC’s ongoing performance management plan, employees specifically assigned to the Disclosure Division are held accountable for their performance in four areas: 1) Provides timely and concise responses...to FOIA and Privacy Act requests; 2) Provides quality analysis...for FOIA and Privacy Act requests; 3) Team Work; and 4) Customer Service. The Disclosure Officer conducts quarterly performance reviews using objective performance data.

As a part of its Outreach and Awareness activities, the Disclosure Division promoted the inclusion of FOIA-related performance standards for non-FOIA professionals. Recognizing that performance planning is a programmatic action between a supervisor and employee, the Disclosure Division annually hosts a recognition ceremony for its “Top Ten Supporters” and their supervisors. The incumbents are non-FOIA professionals who serve as FOIA Liaisons as a collateral duty. This activity creates visibility for high performers, and the individualized vignettes provide a descriptive crosswalk between FOIA requirements and performance. The PBGC will continue promoting FOIA-specific performance standards for non-FOIA professionals.

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

In FY2019, the PBGC announced it had enhanced its three-layered review for “no records” search procedures by implementing the agency’s first “No Records” Checklist. A “no records” determination is issued when the agency has searched locations where responsive records are known to be located. The Disclosure Division created a checklist, which specifically lists additional locations where records might be stored and/or maintained. Before issuing a “no records” determination, two individuals in addition to the Government Information Specialist assigned to the request, used the checklist and also searched all of the locations appearing on the checklist. These additional searches occurred before the disclosure package was submitted for final review. The PBGC believes that this process fostered the presumption of openness by taking steps to ensure the quality and adequacy of its record searches. In FY2019, the PBGC received 2,348 requests and received only 9 appeals; none of the Disclosure Division’s initial determinations were overturned; and none were even partially granted due to an inadequate search.

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 2019, 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 2019 Annual FOIA Report.

6.93 days.

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

N/A. The 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 data, using active workflows and track management, reviewing and updating processing procedures, etc.

Yes. In January 2019, the PBGC reviewed and evaluated several processes: intake, expedited/fee waiver processing, and workflow management by comparing its standard operating procedures (SOPs) and regulations to actual practices. The evaluation resulted in a decision to continue monitoring PBGC's FY2018 update to its search procedures pertaining to the “no records” disposition. The 2019 performance measures for this procedure are described above in Section I.D.9.

4. 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 2019 (please provide a total number or an estimate of the number).

The PBGC estimates that requesters sought assistance from one of its two FOIA Public Liaisons approximately 4 times.

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

For years now, the 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 described 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.
- **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) Teamwork; 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 during weekly staff meetings.
- **End-of-Year Backlog:** At the beginning of August, the Disclosure Officer rebalances workloads by redistributing and/or reassigning all open and overdue cases among staff members. On or about the third business day in September, the Disclosure Division reviews all open cases to confirm the disclosure strategy/course of action and identifies obstacles that might delay case closure; any obstacles are resolved quickly.
- **Workflow Management:** Government Information Specialists must conduct searches or send search requests to record custodians no later than the 5th working day after the request has been assigned.

- ❑ **Read-only Access:** The PBGC has read-only access to various Systems of Records, which allows Government Information Specialists to search for responsive records.
- ❑ **Improved Search Techniques:** In FY 2018 the Disclosure Division augmented its business model, expounded on in its two-prior Chief FOIA Officer Reports, by adding a No-Records Search Plan and Checklist. The increased exchange and collaboration between Record custodians, Subject Matter Experts, and Corporate FOIA Liaisons resulted in a more robust search. Record custodians and their supervisor must sign the search form upon completion.
- ❑ **Review:** The Disclosure Division’s Standard Operating Procedures establish that draft determination packages must be submitted to first reviewer by the 15th working day; exceptions are granted by the Team Coordinator, Deputy or Disclosure Officer. Reviewers must finalize review, approve or return the case for corrections within 2-3 days. All deliverables require at least 2 reviews; certain deliverables require 3 reviews.
- ❑ **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 approach 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 who the case is assigned. This approach encourages research, communication, and collaboration.
- **Training, Outreach & Awareness:**
 - ❑ **Training:** The Disclosure Division conducts FOIA training to all PBGC new hires and conducts ad-hoc training to program offices who have been sent a search request for the first time or for a perceived complicated request. Disclosure Division conducts internal training during its weekly staff meetings. For all division new hires, the Disclosure Division conducts a 2-week onboarding plan.

- **Outreach & Awareness: Annually, the Disclosure Division nominates 10 employees, selected throughout the corporation. These employees and their supervisors are invited to a small reception in which they are recognized for their support of the agency's disclosure mission.**

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 three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.

1) PBGC's Annual Reports:

<http://www.pbgc.gov/about/annual-reports.html>

2) Guidance for Practitioners and Employers:

<https://www.pbgc.gov/prac/whatsnew>

3) Retirement Matters Blog:

<https://www.pbgc.gov/blog>

4) PBGC's Insurance Coverage:

<https://www.pbgc.gov/prac/other-guidance/insurance-coverage>

5) PBGC's Recent News Releases:

<https://www.pbgc.gov/news/press/releases/pr20-01>

6) PBGC Newsletters and Publications:

<http://www.pbgc.gov/wr/newsletters.html>

7) Finding Unclaimed Pensions:

<http://search.pbgc.gov/mp/mp.aspx>

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

- 1) <https://www.facebook.com/pages/Pension-Benefit-Guaranty-Corporation-PBGC/91530573008>
- 2) <https://twitter.com/uspbgc>

Additionally, the PBGC maintains a blog titled, “Retirement Matters,” which serves to update the public on important issues concerning the administration of retirement benefits. Such issues include: postings regarding benefits payable under plans recently trusted or insured by PBGC; guidance on electronic methods of receiving benefit payments; financial forecasts of single employer and multi-employer insurance programs; and other topics of public interest. The blog is updated monthly and is a robust tool for disseminating information to the public.

The PBGC also maintains an Open Government webpage, which includes important PBGC data sets and information about how the public can provide input to improve PBGC’s performance. Currently available records include: PBGC Annual Reports; Reducing Regulatory Burdens; Federal Spending Data Quality Plan; Open Government Plan; Board of Directors Meeting Minutes; and PBGC’s Customer Service Plan. These data sets are important because they serve to increase agency accountability and improve public knowledge of the agency and its operations, which are directly in line with the FOIA mandate.

The Retirement Matters blog and Open Government website are located at:

1) PBGC’s Retirement Matters Blog: <http://www.pbgc.gov/about/who-we-are/retirement-matters>

2) PBGC’s Open Government Website: <http://www.pbgc.gov/open/index.html>

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, the PBGC is taking steps to make posted information more useful to the public and to its participants. The agency’s website is appropriately indexed: <https://www.pbgc.gov/a-zindex>.

3. If yes, please provide examples of such improvements.

PBGC uses public and user feedback to improve communication and outreach efforts. In FY2019, the PBGC emphasized its policy on how third-parties can access certain records about others.

<https://www.pbgc.gov/wr/transactions/power-attorney>

4. Optional—Please describe:

- best practices used to improve proactive disclosures;
- and any challenges your agency faces in this area.

The 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. The 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.

MAKING MATERIAL POSTED ONLINE MORE USABLE:

1. Is your agency leveraging or exploring any new technology to facilitate efficiency in its FOIA administration that you have not previously reported? If so, please describe the type of technology.

No. The PBGC is not formally exploring any new 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, the 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 2019?

Yes, the PBGC posted all four quarterly reports for Fiscal Year 2019.

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 2019.

N/A. The PBGC successfully posted all quarterly reports for Fiscal Year 2019.

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 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

The raw data from Fiscal Year 2018 Annual FOIA Report can be found here: <https://www.pbgc.gov/sites/default/files/fy18-foia-raw-data.xlsx>

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

- <https://www.pbgc.gov/sites/default/files/fy19-foia-annual-report.pdf>
 - <https://www.pbgc.gov/sites/default/files/fy19-foia-report-associated-data-file.xml>
 - <https://www.pbgc.gov/sites/default/files/fy19-foia-raw-data.xlsx>
6. Optional—Please describe:
 - Best practices used in greater utilizing technology; and
 - Any challenges your agency faces in this area.

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 2019 Annual FOIA Report and, when applicable, your agency's 2018 Annual FOIA Report.

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, the PBGC utilizes a separate track for simple requests.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?

Yes, the average number of days to process simple requests in Fiscal Year 2019 was 10.87 days.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.

The PBGC estimates the percentage of requests processed in Fiscal Year 2019 and placed in the simple track was 51%.

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. The 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 2018 and Fiscal Year 2019 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 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

N/A. The PBGC did not have a backlog of requests at the close of Fiscal Year 2019; the PBGC did not have a backlog of requests at the close of Fiscal Year 2018.

6. If not, did your agency process more requests during Fiscal Year 2019 than it did during Fiscal Year 2018.

N/A.

7. If your agency's request backlog increased during Fiscal Year 2019, 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.
- Any other reasons – please briefly describe or provide examples when possible.

N/A. The PBGC has not had a backlog for the past five years.

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 2019.

N/A. The PBGC did not have a backlog at the close of Fiscal Year 2019.

BACKLOGGED APPEALS

9. If your agency had a backlog of appeals at the close of the Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

N/A. The PBGC did not have a backlog of appeals at the close of Fiscal Year 2019; the PBGC did not have a backlog of appeals at the close of Fiscal Year 2018.

10. If not, did your agency process more appeals during Fiscal Year 2019 than it did during Fiscal Year 2018?

N/A. The PBGC processed less appeals compared to Fiscal Year 2018.

11. If your agency's appeal backlog increased during Fiscal Year 2019, 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.

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 2019. If your agency did not receive any appeals in Fiscal Year 2019 and/or has no appeal backlog, please answer with "N/A."

N/A.

C. BACKLOG REDUCTION PLANS

13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1,000 requests in Fiscal Year 2018 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 2019.

N/A. The PBGC did not have a backlog in Fiscal Year 2019; the PBGC was not required to create a backlog reduction plan in accordance with 2018 guidelines.

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2019, what is your agency's plan to reduce this backlog during Fiscal Year 2020?

N/A. The PBGC did not have a backlog in Fiscal Year 2019. The PBGC will continue implementing its agency-initiated annual backlog reduction plan as described in Section II.5.D.

D. STATUS OF TEN 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 2018 and Fiscal Year 2019 when completing this section of your Chief FOIA Officer Report.

TEN OLDEST REQUESTS

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes, the PBGC closed the ten oldest requests that were pending at the end of Fiscal Year 2018.

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 2018 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

N/A. The 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.

At the beginning of August, the Disclosure Division rebalances workloads by redistributing and/or reassigning all open and overdue cases among staff members. On or about the third business day in September, the Disclosure Division reviews all open cases to confirm disclosure strategy/course of action and identifies obstacles that might delay case closure; any obstacles are resolved quickly.

TEN OLDEST APPEALS

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes, the PBGC closed the ten oldest appeals that were pending at the end of Fiscal Year 2018.

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 2018 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

N/A. The PBGC had one pending appeal at the end of Fiscal Year 2018.

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

The PBGC has routinely closed all appeals within the statutory time limit. To ensure this trend continues, the PBGC staff responsible for adjudicating appeals attended DOJ training in Fiscal Year 2019.

TEN OLDEST CONSULTATIONS

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

N/A. The PBGC did not have any consultations at the close of Fiscal Year 2018.

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 2018 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.

N/A.

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. The 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. The 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 2020.

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

SUCCESS STORY

Out of all the activities undertaken by your agency since March 2019 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency **success stories** will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- **Conducted 37 training sessions and targeted discussions during the fiscal year, three more sessions than last fiscal year;**
- **Streamlined “no records” standard operating procedure, significantly decreasing the number of appeals to a single digit; and**
- **Maintained competency and read-only access to multiple systems, thus allowing Disclosure Division staff to timely and adequately perform initial searches for certain types of records.**