

**OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION  
FREEDOM OF INFORMATION ACT  
IMPROVEMENT PLAN**

**June 2006**

This Freedom of Information Act (FOIA) Improvement Plan for fiscal years 2006 and 2007 was created pursuant to the requirements of the President's Executive Order No. 13,392 entitled "Improving Agency Disclosure of Information," 70 Fed. Reg. 75,373 (Dec. 19, 2005), and guidance issued by the Office of Information and Privacy of the U.S. Department of Justice.

**A. Characterize overall nature of agency's FOIA operations (degree of detail optional), with optional reference to areas preliminarily considered for agency review. (Agencies may also describe any particular FOIA challenges that they face.)**

The Occupational Safety and Health Review Commission (Review Commission) is an independent adjudicatory agency created by the Occupational Safety and Health Act of 1970 (the Act). Its sole statutory mandate is to serve as an administrative court providing just and expeditious resolution of disputes involving the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA), employers OSHA has charged with violations of federal safety and health standards, and employees and/or their representatives. The Review Commission was created by Congress as an agency completely independent of the Department of Labor to ensure that OSHA's enforcement actions are carried out in accordance with the law, and that all parties are treated consistent with due process when disputes arise with OSHA. The Act and the Review Commission's Rules of Procedure provide for two levels of adjudication. The first level is a hearing before a Review Commission Administrative Law Judge. The second level is a discretionary appellate review of the judge's decision by the Review Commission's members. There are approximately 60 Review Commission employees who work in the principal (National) office in Washington, D.C. and regional offices in Atlanta and Denver.

The Review Commission has averaged 58 FOIA requests per fiscal year for the past five fiscal years, with a median processing time of 20 working days per request, and has not carried a backlog of requests. Several measures have been initiated to improve FOIA request handling. At the beginning of this fiscal year, the Review Commission moved all FOIA processing to the Office of the General Counsel, where paralegals and attorneys have received training in the handling of FOIA requests. Previously, a single person was responsible for all FOIA requests as part of that person's duties. When that person was absent or was occupied with other duties, FOIA request processing was delayed. Since FOIA request handling was moved to the Office of the General Counsel, the median processing time has dropped to 3.5 working days as of June 1, 2006. Further reductions would be difficult to achieve as many of the records requested are kept in off-site storage. The Review Commission is also in the process of updating and improving its FOIA regulations and internal FOIA handling directive, as well as its FOIA Reference Guide, in order to implement the changes required by Executive Order No. 13,392 and to further streamline the Review Commission's processing of FOIA requests.

**B. List all areas selected for review.**

The Review Commission reviewed its entire FOIA program for those areas of potential improvement identified in “Executive Order 13,392 Implementation Guidance” issued by the Office of Information and Privacy of the U.S. Department of Justice. A listing of those areas and a summary of the results of the review follows.

**C. Include narrative statement summarizing results of review.**

1. *Affirmative disclosure under subsection (a)(2).* The Review Commission makes available on its Web site information required under subsection (a)(2) of the FOIA, 5 U.S.C. § 552(a)(2): (A) decisions and orders by its judges and commissioners; (B) statements of policy and interpretations adopted by the Review Commission and not published in the *Federal Register*; (C) administrative staff manuals and instructions to staff that affect a member of the public; (D) copies of records that have become or are likely to become the subject of subsequent requests for substantially the same records; and (E) a general index of those records. The Web site is continually updated with the required content in a timely fashion.
2. *Proactive disclosure of information.* Documents that do not fall into any subsection (a)(2) category listed above are made available to the public through posting on the Web site if it is determined that posting them may forestall the public’s need to file FOIA requests.
3. *Overall FOIA Web site improvement.* The Review Commission will continue to ensure that the information posted to its Web site is current and accurate, and will work on improving the appearance of information on it.
4. *Improvement of agency's FOIA Reference Guide.* The Review Commission’s FOIA Reference Guide will be updated immediately after the updating of its FOIA regulations and internal directive for handling FOIA requests.
5. *Automated tracking capabilities.* Because of the relatively low volume of FOIA requests received and the Review Commission’s relatively fast response to them, very few requesters have called regarding the status of their requests. The Review Commission uses a spreadsheet to track FOIA requests, which has proven to be sufficient to track their status.
6. *Electronic FOIA – automated processing.* The Review Commission has determined that automated processing, other than for using a spreadsheet to track requests, is not warranted for the relatively low volume of FOIA requests received.
7. *Electronic FOIA – receiving/responding to requests electronically.* The Review Commission has been receiving FOIA requests by e-mail and will continue to do so.

8. *Multi-track processing.* The Review Commission provides for two-track processing in its FOIA regulations. During the past five years, there has not been a FOIA request that was required to be put on a separate track. The Review Commission will continue to provide two-track processing for FOIA requests should the need arise.
9. *Troubleshooting of any existing problems (even minor ones) with existing request tracking.* The Review Commission monitors its request tracking to determine if there is any problem with the processing of FOIA requests.
10. *Case-by-case problem identification.* Any lessons learned in handling a particularly difficult FOIA request are considered for across-the-board adjustments where necessary.
11. *Expedited processing.* Requests for expedited processing have been rare, with only one received during the past five fiscal years. Decisions on whether to grant expedited processing in the current fiscal year have been made within the FOIA's ten-day limitation.
12. *Backlog reduction/elimination.* The Review Commission does not have a FOIA request backlog.
13. *Politeness/courtesy.* All employees handling FOIA requests are trained to be polite and courteous when dealing with requesters.
14. *Forms of communication with requesters.* Requesters are promptly contacted, by phone if possible, if there is any lack of clarity regarding their requests. If no phone number is provided, a requester will be contacted by mail.
15. *Acknowledgment letters.* The Review Commission usually acknowledges receipt of the request together with the documents that the requester is seeking. On occasions where an immediate production of documents is not possible, requesters are informed of the status of the request.
16. *System of handling referrals.* Requests that result in referrals to other agencies are monitored to ensure that they are handled promptly.
17. *System of handling consultations.* Requests that result in consultations with other agencies are monitored to ensure that they are handled promptly.
18. *Process by which necessary cooperation is obtained from agency "program personnel."* Under the revised Review Commission FOIA directive, requests to program personnel for documents are to be put on standard forms which should help with the internal tracking and processing of FOIA requests. The revised internal FOIA directive that will be distributed to staff will emphasize the critical role that program personnel play in responding to FOIA requests.

19. *Improvement ideas from field office personnel (where applicable).* The Review Commission's regional offices do not handle FOIA requests.
20. *Additional training needed (formal and/or on-the-job).* Staff in the Office of the General Counsel that perform FOIA request handling take advantage of the various Department of Justice FOIA training opportunities.
21. *In-house training on "safeguarding label"/FOIA exemption distinctions.* Attorneys in the Office of the General Counsel who are trained in FOIA request handling assist those not familiar with FOIA exemptions in determining whether any exemptions apply to a particular request.
22. *Increased staffing (where applicable).* Staffing for handling FOIA requests has effectively been increased by moving FOIA request handling responsibilities to the Office of the General Counsel.
23. *Changes to personnel practices (job series, grades, etc.) needed.* As part of the transition of FOIA processing to the Office of the General Counsel, the two previous GS-7 Secretary positions in the office have been changed to that of Paralegal Specialist, GS-9 /11. Part of the new paralegals' duties include the processing of FOIA requests under the supervision of agency attorneys.
24. *Contracting out/hiring of contract employees.* Due to the small volume of FOIA requests and adequate staffing in the Office of the General Counsel, the Review Commission has determined that it is not necessary to contract out or hire contract employees to handle FOIA requests.
25. *Purchase of new equipment needed.* The current equipment used for processing FOIA requests appears sufficient. Any proposed improvements to Review Commission equipment will take the agency's FOIA processing requirements into account.
26. *Centralization/decentralization.* The Review Commission handles its FOIA responsibilities on a centralized basis. All FOIA requests received in the Review Commission's national and regional offices are forwarded to the Office of the General Counsel for processing.
27. *Recycling of improvement information gleaned from FOIA Requester Service Centers.* All requester-provided information on how to improve FOIA request handling will be reviewed and, if warranted, implemented.

**D. List all areas chosen as improvement areas for agency plan.**

- Revision of Review Commission's FOIA regulations, directive and reference guide.

**E. For each improvement area provide the following:**

1. *Name (e.g., backlog reduction / elimination).* Revision of Review Commission's FOIA regulations, directive and reference guide.
2. *Brief statement of goal(s)/objective(s) (i.e., improvement(s) sought to be made).* Updating and improving the Review Commission's FOIA regulations and internal FOIA handling directive, as well as its FOIA Reference Guide, in order to implement the changes required by Executive Order No. 13,392 and to further streamline the Review Commission's processing of FOIA requests.
3. *List of all distinct steps planned to be taken.* Drafting of new FOIA regulations and the internal FOIA directive shall be accomplished first, followed by the revision of the Review Commission's FOIA Reference Guide.
4. *Time milestones (in relation to specific timetables and outcomes).* The Review Commission's FOIA regulations, directive and reference guide shall be completed by October 1, 2006.
5. *Means of measurement of success (e.g., quantitative assessment of backlog reduction expressed in numbers of pending requests, percentages, or working days).* Since moving FOIA processing to the Office of the General Counsel this fiscal year, the Review Commission has dramatically reduced the median processing time for FOIA requests. Our goal is to maintain a median FOIA request processing time of no more than 7 working days per request.

**F. For the entire plan, group the improvement areas into the following time periods:**

1. *Areas anticipated to be completed by December 31, 2006.* Complete revisions to the OSHRC's FOIA regulations, directive and Reference Guide.
2. *Areas anticipated to be completed by December 31, 2007.* Review reports from the Public Liaison, FOIA officers, and others involved in the process in order to improve OSHRC FOIA handling.
3. *Areas anticipated to be completed after December 31, 2007.* All areas should be completed before December 31, 2007.