

**Pension Benefit Guaranty Corporation
Freedom of Information Act (FOIA) Report
Improvement Plan under Executive Order 13,392**

A. Characterize Overall Nature of PBGC's FOIA operations

The Pension Benefit Guaranty Corporation was established in 1974 under the Employee Retirement Income Security Act ("ERISA") to protect the pensions of workers and retirees in private-sector defined benefit pension plans. PBGC is responsible for paying monthly retirement benefits, up to a guaranteed maximum, to about 683,000 retirees in 3,595 pension plans that terminated without enough money to pay promised benefits. Including those who have not yet retired and participants in multiemployer plans receiving financial assistance, PBGC is responsible for the current and future pensions of about 1,300,000 people. Last fiscal year, PBGC paid out approximately \$3.7 billion in pension benefits. PBGC operations are financed largely by insurance premiums paid by the sponsors of defined benefit pension plans, by investment income and by the assets of failed pension plans. PBGC receives no funds from general tax revenues.

The PBGC employs approximately 800 full time employees (FTEs) in its offices in Washington D.C. The Disclosure Division of PBGC's Office of the General Counsel is responsible for PBGC's FOIA program. The Disclosure Division employs 6 FTEs and received over 1,600 FOIA requests in fiscal year 2005. PBGC expects to process over two thousand FOIA requests in 2006. The increase is primarily due to the termination of a number of large pension plans in 2004 and 2005 for which PBGC became responsible for paying pension benefits. The majority of PBGC's FOIA requests are made by participants and beneficiaries in failed pension plans seeking information about how PBGC calculated the amount of their benefits under ERISA's pension plan termination insurance program.

To process the increasing number of requests each year in a timely manner, and to make records available electronically as required by the Electronic Freedom of Information Act Amendments of 1996, PBGC invested in FOIA processing software. The software permits PBGC to track incoming FOIA requests, acquire responsive documents maintained by PBGC in an electronic format, convert responsive paper documents into electronic files, and review and redact those documents electronically. Since FY 2000, the PBGC's cost of processing a FOIA request has been reduced by over 36% even though the number of FOIA requests received annually has increased exponentially.

PBGC prides itself on providing outstanding customer service. All employees are required to take customer service training and abide by the PBGC's customer service pledge that is posted on PBGC's website at <http://www.pbgc.gov/workers-retirees/header-footer-general/content/page13337.html>. Even before the issuance of Executive Order 13,392, one phone call to the Disclosure Division would allow a requester to receive information on the status of his or her FOIA request. PBGC's web

page has a very useful Freedom of Information Act Guide for individuals interested in making an FOIA request. In addition, the web page has a FOIA Electronic Reading Room, which contains useful information and frequently requested records. Finally, we believe our determination letters are clear and concise and provide the requester with a full explanation of any exemptions relied upon to withhold records. PBGC's FOIA appeal rate is less than one half of one percent. Overall we feel that PBGC's FOIA program is efficient, customer-friendly, and fulfills the spirit and intent of E.O. 13,392.

B. Areas Selected for Review

In undertaking the review required under E.O. 13,392, PBGC started with the fact that PBGC processed 1,487 FOIA requests in fiscal year 2005 and that the median number of days to respond to a FOIA request was 17 days. PBGC does not carry a significant backlog of requests pending for more than 20 days. The challenge facing PBGC is to maintain or further reduce the time needed to process a FOIA request given that the number of FOIA requests it receives annually will inevitably continue to increase as the number of participants and beneficiaries in failed pension plans for which PBGC becomes responsible for paying pension benefits increases. As part of its review, PBGC considered:

- 1. Affirmative Disclosure under 5 U.S.C. § 552(a)(2)**
- 2. Proactive Disclosure of Information**
- 3. Improvement of Agency's FOIA Reference Guide**
- 4. Automated Request Tracking/Electronic FOIA Processing**
- 5. Multi-Track Processing**
- 6. Expedited Processing**
- 7. Politeness/Courtesy**
- 8. Forms of Communication with Requesters/Acknowledgment Letters**
- 9. Cooperation with Agency Program Personnel**
- 10. Mandatory FOIA/Privacy Act/Identity Theft Training for Certain PBGC Personnel**

C. Results of Review

1. Affirmative Disclosure under 5 U.S.C. § 552(a)(2)

Our review of PBGC's reading and electronic reading room materials reveals that PBGC is maintaining and is updating required materials. PBGC recently added to its website a searchable database of decisions issued by the PBGC's Appeals Board. The database is accessible through PBGC's electronic reading room. See: <http://www.pbgc.gov/media/key-resources-for-the-press/content/page13687.html>. No further action is required.

2. Proactive Disclosure of Information

Detailed information on PBGC's insurance programs is available on PBGC's web site. These documents include annual reports and facts sheets relative to PBGC's insurance programs. Nevertheless, PBGC is exploring ways to make more information available to the public on its website. For example, participants and beneficiaries in failed pension plans trusted by the PBGC often seek copies of the pension plan document. If plan documents were routinely posted on PBGC's website, the number of FOIA requests or the amount of information that must be processed for disclosure under FOIA could be reduced. **Additional actions outlined in categories D&E.**

3. Improvement of Agency's FOIA Reference Guide

As part of Implementing E.O. 13,392, PBGC reviewed its FOIA reference guide and amended it to identify the PBGC's Chief FOIA Officer, PBGC's FOIA Requester Service Center, and PBGC's FOIA Public Liaison. No further action is necessary.

However, PBGC can take additional steps to inform its customers who do not have access to PBGC's website about the process. PBGC periodically sends newsletters to participants and beneficiaries receiving benefits from PBGC. PBGC will explore the possibility of including information about making FOIA requests in periodic newsletters or other communications with PBGC customers or stakeholders.

4. Automated Request Tracking/Electronic FOIA Processing

As noted above, PBGC has implemented FOIA processing software that tracks the status of incoming FOIA requests and to review and redact responsive records electronically. All employees in the Disclosure Division have access to the system and can respond to an inquiry on the status of any request in a concise and efficient manner. PBGC's Office of Information Technology (OIT) supports the FOIA processing software and is able to modify the system to suit the Disclosure Division's needs or to resolve any problems that occur.

As a result of its review, PBGC intends to modify the tracking system to collect additional information as to the type of each FOIA request. The PBGC will use the

additional information, along with information about problems reported to PBGC's Disclosure Officer, the FOIA Requester Service Center, or its FOIA Public Liaison, to identify areas where its FOIA processing procedures may be improved to further reduce processing times and prevent backlogs. **Additional actions outlined in categories D&E.**

5. Multi-Track Processing

PBGC has not adopted multi-track processing. Based on the relatively few requests that require review of voluminous records and the limited number of FTE's in PBGC's disclosure division, PBGC concluded that establishing a separate track for voluminous requests would be administratively burdensome. Instead, the Disclosure Division relies on frequent communications with requesters seeking voluminous records to refine the scope of the request and keep them apprised of the status of their request. No further action required.

6. Expedited Processing

All media and congressional FOIA requests are routinely processed on an expedited track. No further action required.

7. Politeness/Courtesy

As mentioned above, all PBGC employees are trained on customer service standards, including politeness and courtesy when dealing with the public. Additional or refresher training on this subject is not a PBGC priority at this time.

8. Forms of Communication with Requesters/Acknowledgment Letters

As mentioned above, our review indicates that PBGC's FOIA response letters are clear and concise and provide the requester with a full explanation of any exemption relied upon to withhold records. Disclosure Division employees routinely send acknowledgment letters to requesters within 72 hours after the receipt of a request. The letters include a point of contact for questions. In the case of a voluminous request, a Disclosure Division employee will contact the requester by telephone to clarify the request and discuss ways to reduce its scope. PBGC will continue to monitor communications with the requester and the public to make improvements when appropriate.

FOIA requests require PBGC to release numerous pages of records. Although records are processed for release electronically, PBGC must save the disclosable records on a disc or convert the records to paper. This is because limitations imposed on the size of e-mail attachments under PBGC's e-mail system require PBGC to mail or fax materials to requesters. To enhance efficiency and improve customer satisfaction, we intend to explore with PBGC's OIT the feasibility of expanding the size of attachments that Disclosure Division employees can send outside the agency via e-mail or to

implement some other means of transferring large amounts of electronic files to requesters. **Additional actions outlined in categories D&E.**

9. Cooperation with Agency Program Personnel

Some requests take a significant amount of time to process because Disclosure Division personnel may have a difficult time locating responsive records. Program personnel are subject to heavy workloads and cooperation with Disclosure Division employees to respond to a FOIA request does not always receive the immediate required attention. To prevent this problem and reduce the time needed to obtain responsive records, the Chief FOIA Officer will ask PBGC program managers to designate a point of contact who will be responsible for assisting Disclosure Division employees in locating the records that may be responsive. The Disclosure Officer will train the points of contact on PBGC's obligations in responding to FOIA requests. **Additional actions outlined in categories D&E.**

10. Mandatory FOIA/Privacy Act/Identity Theft Training for Certain PBGC Personnel

Although PBGC offers FOIA, Privacy Act (PA), and Identity Theft training annually to new and other interested PBGC employees, we intend to make annual training mandatory for employees in agency components that regularly interact with the public and for employees of contractors that staff and maintain PBGC's Field Benefit Administration offices. **Additional actions outlines in categories D&E.**

D. Areas Selected for Improvement

- 2. Proactive Disclosure of Information**
- 4. Automated Request Tracking/Electronic FOIA Processing**
- 8. Forms of Communication with Requesters/Acknowledgment Letters**
- 9. Cooperation with Agency Program Personnel**
- 10. Mandatory FOIA/Privacy Act/Identity Theft Training for Certain PBGC Personnel**

E. Improvement Plan For Areas Selected

2. Proactive Disclosure of Information

a. Objective:

Study the feasibility of designing and implementing an electronic FOIA document retrieval center to permit public access to large volumes of records that are subject to multiple FOIA requests.

b. Steps and Milestones:

- i. By December 31, 2006, or earlier, perform research to identify potential solutions and estimated costs of implementing an electronic document retrieval center.
- ii. By December 31, 2007, or earlier, if a potential solution is identified at a reasonable cost and funds are available, begin the process of seeking formal approval to purchase any necessary goods or services under applicable PBGC policies and directives.

c. Means of Measurement or Success:

- i. During calendar year 2006, prepare and submit to the Chief FOIA Officer a summary of the research on potential solutions and estimated costs of implementing an electronic document retrieval center.
- ii. For calendar year 2007, if a potential solution is identified at a reasonable cost and agency funds are available, prepare and submit a recommendation to the Chief FOIA Officer to begin the process of seeking formal approval to make the required purchases in accordance with applicable PBGC policies and directives.

4. Automated Request Tracking/Electronic FOIA Processing

a. Objective:

To identify areas where FOIA processing procedures may be improved to reduce processing times and prevent backlogs.

b. Steps and Milestones:

- i. By December 31, 2006, modify PBGC's electronic tracking system to classify the type of request. Categories of requesters include, but are not limited to plan participants and beneficiaries; media; educational or research institutions; auditors, actuarial firms or other pension practitioners; state unemployment, child support enforcement, or housing agencies that seek verification of pension payments made to an individual; unions seeking information on members; Congressional inquires; and pension plan sponsor inquires.
- ii. By December 31, 2007, or earlier, use the data collected about the type of requester and the time for processing the request to determine the mean number of days required to process specific types of requests. Use that data to identify areas where PBGC procedures can be improved or modified to reduce processing times for each type of request.
- iii. By December 31, 2008, implement new or revised procedures to reduce the time for processing each type of request.

c. Means of Measurement or Success:

- i. For calendar year ending 2007, identify the mean number of days to process each type or request to use as a baseline for comparison.
- ii. For calendar year 2007, reduce the mean number of days to process each type of request.

8. Forms of Communication with Requesters/Acknowledgment Letters

a. Objective:

Work with PBGC's OIT to study the feasibility of implementing procedures to permit the Disclosure Officer to release records to a FOIA requester by e-mail with an attachment that exceeds the current size limit on e-mail attachments.

b. Steps and Milestones:

- i. By December 31, 2006, or earlier, complete discussions with OIT on the ways to expand the size of attachments that Disclosure Division employees can send outside the agency via e-mail, and/or work with OIT to perform necessary research to identify other means of transferring large amounts of electronic files to requesters and the estimated costs of implementing an alternative solution.
- ii. If it is determined that IT enhancements are necessary to expand the size of attachments that Disclosure Division employees can send outside the agency via e-mail, the purchase of such enhancements, if obtainable at a reasonable cost (and funds are available), will be made by September 30, 2007.

c. Means of Measurement of Success:

- i. For calendar year 2006, prepare and submit to the Chief FOIA Officer a summary of OIT's view concerning the feasibility of expanding the size of attachments that Disclosure Division employees can send outside the agency via e-mail, and/or research on other means of transferring large amounts of electronic files to requesters and the estimated costs of implementing an alternative solution.
- ii. By the end of FY2007, if feasible, expand the size of attachments that Disclosure Division employees can send outside the agency via e-mail. If expanding the size of e-mail attachments is not feasible, submit a recommendation to the Chief FOIA Officer on whether to pursue other means of transferring large amounts of electronic files to requesters based on the research, anticipated costs, and the availability of agency funds.

9. Cooperation with Agency Program Personnel

a. Objective:

To assist in locating records that may be responsive to a FOIA request, designate a point of contact in each PBGC department to serve as a point of contact for Disclosure Division employees.

b. Steps and Milestones:

- i. By December 31, 2006, or earlier, the Chief FOIA Officer will send a memorandum asking Department Directors to designate a knowledgeable employee to act as a point of contact for Disclosure Division employees seeking records that may be responsive to a FOIA request.
- ii. By December 31, 2006, or earlier, the Disclosure Officer will brief each point of contact on PBGC's obligations in responding to FOIA requests.

c. Means of Measurement or Success:

For calendar year 2006, points of contacts will be designated for each department and briefed by the Disclosure Officer on PBGC's obligations in responding to FOIA requests.

10. Mandatory FOIA/Privacy Act/Identity Theft Training for Certain PBGC Personnel

a. Objective:

To heighten awareness and accountability of FOIA/PA and Identify Theft for all PBGC's employees, provide expanded mandatory annual FOIA/PA and Identify Theft training for specific departments that deal directly with the public.

b. Steps and Milestones:

- i. By December 31, 2006, work with PBGC's Training Institute to develop a training plan and schedule to provide expanded mandatory FOIA/PA and Identify Theft training to employees of PBGC's Human Resources Department (HRD), the Benefit Payment and Administration Department (BAPD), and for the contractors that staff PBGC's Field Benefit Administration (FBA) offices at least once every two years.
- ii. By December 31, 2007, develop FOIA/PA and Identity Theft presentations tailored to different duties and responsibilities of HRD and BAPD employees, and FBA contractors. Present the tailored briefings to these separate audiences. Present a tailored briefing to contractors at one or more of the FBA sites.

c. Means of Measurement or Success:

- i. For calendar year 2006, prepare and submit to the Chief FOIA Officer a summary of the training plan and schedule developed with PBGC's Training Institute for providing mandatory FOIA/PA and Identity Theft training to HRD employees, BAPD employees, and FBA contractors at least once every two years.
- ii. Prepare and present expanded FOIA/PA and Identity Theft presentations tailored to HRD and BAPD employees. Present a tailored briefing to contractors at one or more of the FBA sites.

F. Improvement Areas by Time Period

1. Areas anticipated to be completed by December 31, 2006.

- a. PBGC's electronic FOIA tracking system will be modified to maintain information about type of FOIA requests received.
- b. The Disclosure Officer will work with the PBGC's OIT to perform required research to identify potential solutions and the estimated cost of implementing an electronic document retrieval center.
- c. The Disclosure Officer will seek PBGC's OIT views on the feasibility of expanding the size of attachments that Disclosure Division employees can send outside the agency via e-mail, and/or seek assistance in performing research to identify other means and of transferring large amounts of electronic files to requesters and the estimated costs of implementing an alternative solution.
- d. With PBGC's Training Institute, the Disclosure Officer will develop a training plan and schedule to provide mandatory FOIA/PA and Identity Theft training to employees of PBGC's HRD, and BAPD, and for the contractors that staff PBGC's FBA offices at least once every two years.
- e. The Chief FOIA Officer will send a memorandum asking Department Directors to designate a knowledgeable employee to act as a point of contact for Disclosure Division employees seeking records that may be responsive to a FOIA request. The PBGC's Disclosure Officer will brief the points of contact on PBGC's obligations in responding to FOIA requests.

2. Areas anticipated to be completed by December 31, 2007.

- a. The Disclosure Officer will use data from PBGC's electronic FOIA tracking system on the type of request received and the time for processing each request to determine the mean number of days required to process each type of request. The information will be used to identify areas where PBGC

procedures can be improved or modified to reduce processing times for each type of request.

- b.** If a potential solution is identified for implementing an electronic document retrieval center at a reasonable cost, and if funds are available, then the Disclosure Officer will begin the process of seeking formal approval to make the required purchases under applicable PBGC policies and directives.
- c.** If feasible, OIT will expand the size of attachments that Disclosure Division employees can send outside the agency via e-mail. If expanding the size of e-mail attachments is not feasible, and if a potential solution is identified at a reasonable cost and funds are available, then the Disclosure Officer will begin the process of seeking formal approval to make the required purchases in accordance with applicable PBGC policies and directives.
- d.** The Disclosure Officer will develop an expanded FOIA/PA and Identity Theft presentations tailored to different duties and responsibilities of HRD and BAPD employees, and of FBA contractors. The Disclosure Officer will present the briefings to separate groups of HRD and BAPD employees. The Disclosure Officer will present a briefing to contractors at one or more of the FBA sites.

3. Areas anticipated to be completed by December 31, 2008.

- a.** The Disclosure Officer will implement new or revised procedures identified by determining the mean number of days required to process each type of FOIA request received.
- b.** The Disclosure Officer will continue to present an expanded FOIA/PA and Identity Theft presentations to separate groups of HRD and BAPD employees who were unable to attend in 2007. The Disclosure Officer will present a briefing to contractors at one or more of the FBA sites that did not receive a briefing in 2007.