NATIONAL LABOR RELATIONS BOARD

Freedom of Information Act Annual Report
Fiscal Year 2006

I. Basic Information

A. For questions concerning this Report contact:
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National Labor Relations Board
1099 14th Street, NW, Suite 10600
Washington, DC 20570

B. Report may be obtained through the Internet at:
www.nlrb.gov/nlrb/about/foia/06Report.pdf

C. Report may also be obtained by making a request to the address listed above.

II. How to Make a FOIA Request

A. Our FOIA Reference Guide, located on the NLRB's FOIA Home Page at www.nlrb.gov/nlrb/about/foia/reference.asp, details the different methods of making a FOIA request to the NLRB.

B. The NLRB's median response time for responding to FOIA requests in FY 2006 was 6 working days. For appeals, the median processing time was 19 working days.

C. All federal agencies, including the NLRB, are required under the FOIA to provide records upon receiving a written request, except for those documents that are protected from disclosure by the FOIA's nine exemptions and three exclusions. The most common reasons why some requests are not granted by the NLRB are because requesters seek information protected by the following FOIA exemptions:

• Exemptions (b)(6) and (b)(7)(C):	protects information concerning other individuals that, if released, would constitute an invasion of their personal privacy.
• Exemption (b)(5):	protects certain inter- and intra-agency memoranda, including those setting forth internal recommendations from staff and those that contain attorney work product.

• Exemptions (b)(7)(A) (b)(7)(D)and (b)(7)(E)	protects certain records in law-enforcement investigatory files, including records the release of which would interfere with an ongoing proceeding and records that would reveal confidential sources or enable someone to avoid complying with the law.

III. Definitions of Terms and Acronyms Used in this Report

A. Agency-specific acronyms and other terms:

1. NLRB -- National Labor Relations Board
2. FOIA -- Freedom of Information Act (5 U.S.C.§ 552)
3. FY -- Fiscal Year
4. P.A. -- Privacy Act (5 U.S.C. § 552a)

B. Basic terms, expressed in common terminology

1. FOIA/PA Request -- Freedom of Information Act/Privacy Act Request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)

2. Initial Request **--** a request to the NLRB for access to records under the FOIA.

3. Appeal **--**a request to the NLRB asking that it review at a higher administrative level a full or partial denial of a FOIA request, or any other FOIA determination such as a matter pertaining to fees.

4. Processed Request or Appeal -- a request or appeal for which the NLRB has taken a final action on the request or the appeal in all respects.

5. Multi-track Processing -- a system in which simple requests requiring minimal action are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. Note: The NLRB does not have multi-track processing as it generally responds to requests on a timely basis and does not have any significant FOIA backlog. A requester who has an urgent need for records may request expedited processing (see III.B.6. directly below).

6. Expedited Processing -- The NLRB will process a FOIA request on an expedited basis when a requester has shown exceptional need or urgency for the records that warrants prioritization of his or her request over other requests that were made earlier.

7. Simple Request -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested. As noted above, the NLRB does not have multi-track processing.

8. Complex Request -- a FOIA request that any agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested. As noted above, the NLRB does not have multi-track processing.

9. Grant -- a NLRB decision to disclose all records in full in response to a FOIA request.

10. Partial Grant -- a NLRB decision to disclose a record in part in response to a FOIA request, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entities, but to withhold others in whole or in part.

11. Denial **--** a NLRB decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the NLRB to be exempt under one or more of the FOIA's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).

12. Time Limits **--** the time period set forth in the FOIA for an agency to respond to a FOIA request, ordinarily 20 "working days" from proper receipt of a "perfected" FOIA request (see III.B.13. & 17. below). Note: The NLRB response times in Part VII below, in accordance with the Justice Department Guidelines, are given in working days.

13. Perfected Request -- a FOIA request for records that adequately describes the records sought; that has been received by the NLRB component in possession of the records, and for which there is no remaining question about the payment of applicable fees.

14. Exemption 3 Statute **--** a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA subsection (b)(3).

15. Median Number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.

16. Average Number -- the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

17. Working Days -- days except Saturdays, Sundays, and legal public holidays. As noted, the NLRB's response times in Part VII below are given in median working days.

IV. Exemption 3 Statutes

A. The NLRB did not rely on any Exemption 3 statutes during the fiscal year covered by this report (FY 2006).

V. Initial FOIA Requests

A. Total Number of Requests:

1. **133** requests were pending at the end of fiscal year 2005.
2. **4689** requests were received during fiscal year 2006.
3. **4553** requests were processed during fiscal year 2006.
4. **269** requests were pending as of the end of fiscal year 2006.

B. Disposition of Initial Requests in Fiscal Year 2006:

1. **3402** requests were granted in full.
2. **478** requests were denied in part based on FOIA Exemptions.
3. **246** requests were denied in full based on FOIA Exemptions.

(1)	Exemption 1	**0**
(2)	Exemption 2	**51**
(3)	Exemption 3	**0**
(4)	Exemption 4	**18**
(5)	Exemption 5	**215**
(6)	Exemption 6	**307**
(7)	Exemption 7(A)	**236**
(8)	Exemption 7(B)	**0**
(9)	Exemption 7(C)	**302**
(10)	Exemption 7(D)	**226**
(11)	Exemption 7(E)	**12**
(12)	Exemption 7(F)	**0**
(13)	Exemption 8	**0**
(14)	Exemption 9	**0**

The total number of exemptions relied upon exceeds the number of adverse determinations because a determination often relies on more than one exemption.

4. Other reasons for non-disclosure (total) **427**

    (a) no records exist reflecting the
        requested information **131**
    (b) request referred **110**
    (c) request withdrawn **114**
    (d) fee-related reason **15**
    (e) records not reasonably described **21**
    (f) not proper FOIA request
        for some other reason **20**
    (g) not an Agency record **6**
    (h) Duplicate Request **0**
    (i) Other: record destroyed **10**

VI. Appeals of Initial Denials of FOIA Requests

A. Total Number of Requests:

1. Number of appeals received during
    fiscal year 2006 **24**
2. Number of appeals processed during
    fiscal year 2006 **23**

B. Disposition of appealed requests in FY 2006:

1. Number granted in full **1**
2. Number granted in part **4**
3. Number denied in full **14**

    (a) The number of times each FOIA exemption was used,
        counting each exemption once per appeal:
        (1) Exemption 1 **0**
        (2) Exemption 2 **0**
        (3) Exemption 3 **0**
        (4) Exemption 4 **0**
        (5) Exemption 5 **6**
        (6) Exemption 6 **7**
        (7) Exemption 7(A) **6**
        (8) Exemption 7(B) **0**
        (9) Exemption 7(C) **8**
        (10) Exemption 7(D) **4**
        (11) Exemption 7(E) **0**
        (12) Exemption 7(F) **0**
        (13) Exemption 8 **0**
        (14) Exemption 9 **0**

The total number of exemptions relied upon exceeds the number of determinations on appeal because a determination often relies upon more than one exemption.

4. Other reasons for nondisclosure (total)	**4**
(a) no records exist reflecting the requested information	**0**
(b) request referred	**0**
(c) request withdrawn	**0**
(d) fee-related reason	**2**
(e) records not reasonably described	**1**
(f) not proper FOIA request for some other reason	**1**
(g) not an Agency record	**0**
(h) Duplicate Request	**0**
(i) other, such as record destroyed	**0**

VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for the 4553 requests processed during fiscal year 2006: **6** working days (<u>note</u>: the NLRB does not have multi-track processing. No requester sought expedited processing).

B. Status of pending requests:
1. Number of requests pending as of the end of fiscal year 2006 is **269.**
2. Median number of days that such requests were pending as of the end of fiscal year 2006 is **19** working days.

VIII. Comparison with Previous Fiscal Year

A. The number of requests received in FY 2005 was **4681**; the number received in FY 2006, **4689**, represents an increase of **0.17%.**

B. The number of requests processed in FY 2005 was **4702**; the number processed in FY 2006 was **4553**.

C. The median number of days requests were pending as of the end of FY 2005 was **4** days. The median number of days that such requests were pending at the end of FY 2006 is **19** days.

D. No requests for expedited processing were received in FY 2006 and therefore none were granted.

E. Other narrative statements: none.

IX. Costs/FOIA Staffing

A. Staffing levels:
    1. Number of full-time FOIA personnel **1**
    2. Number of personnel with part-time or occasional FOIA duties (in total work-years) **6.32**.
    3. Total number of personnel (in work-years) **7.32**.
B. Total costs (including staff and all resources):
    1. FOIA processing (including appeals) **$734,538.14**[1]
    2. Litigation related activities **$18,630.18**
    3. Total costs **$753,168.32**

X. Fees

This includes charges for search, review, document duplication, and any other direct costs permitted under agency regulations.

A. Total amount of fees collected by agency for processing requests: **$86,913.47.**
B. Percentage of total costs: **11.54%**.

XI. FOIA Regulations (Including Fee Schedule)

The NLRB's FOIA regulations, including the fee schedule, are codified at 29 C.F.R. 102.117.

XII. REPORT ON EXECUTIVE ORDER 13,392 IMPLEMENTATION.

On December 14, 2005, the President issued Executive Order 13,392, entitled "Improving Agency Disclosure of Information," which established a "citizen-centered" and "results-oriented" approach to administration of the Freedom of Information Act. The Executive Order required each agency to conduct a review of its FOIA operations, to develop an agency-specific plan to improve its administration of the Act, and to include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan.

This section of the annual report contains the National Labor Relations Board's description of its progress in implementing the milestones and goals of the Agency's FOIA Improvement Plan.

The reporting period for Section XII is different from that used for the rest of this report, which is based on data complied for Fiscal Year 2006. The

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[1] This sum includes cost associated with the classification and indexing of decisional material and the publication of indices thereto, and the processing of materials required to be posted on the Agency website.

reporting period for this section concerning Executive Order implementation activities includes progress made by the Agency through January 2007.

A. Description of supplemental/modification of agency improvement plan (if applicable).

Not applicable.

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvements area.

The NLRB has met all the goals and milestones established in the report it submitted on June 14, 2006, in response to Executive Order 13,392, that were to be completed for this reporting period.

Specifically, the NLRB concentrated on improvements to its FOIA Web site, as well as increasing efficiency by utilizing better information technology to track, process, and report on FOIA requests.

The NLRB redesigned its Web site to make information more accessible and to enable users to obtain information directly from the site. As part of the improvement process, the Agency evaluated and updated all of the information on the Web site, including documents in the Agency's electronic reading room, adding documents to the Frequently Requested Documents, clarifying the procedures for making a FOIA request, and adding information about the FOIA appeals process. In addition, functions of the FOIA Service Center and the FOIA Liaison were explained and contact information was provided. Also, the NLRB has designated an employee to regularly update the Web site, including identifying information that is frequently requested and adding this information to the site.

The NLRB revised its FOIA Tracking System (FTS), which allows for increased electronic tracking and reporting of Agency-wide FOIA requests and NLRB actions regarding these requests. Such improvements include adding information concerning the Agency's handling of FOIA appeals, allowing for electronic generation of FOIA invoices, and providing for Agency-wide searches of FOIA requests. In addition to generating statistics for the Annual Report more quickly and accurately, the new FTS improves the NLRB's ability to monitor the progress of pending FOIA cases Agency-wide, which ensures the Agency's continued success in timely processing FOIA requests. Additional management report capabilities were added.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable).

Not applicable.

D. Additional narrative statement regarding other executive order-related activities (optional).

Not applicable.

E. Concise descriptions of FOIA exemptions:

The nine exemptions to the FOIA authorize federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual; (8) information relating to the supervision of financial institutions; and (9) geological information on wells.

F. Additional statistics:

1. Time range of requests pending by date of request (or, where applicable, by date of referral from other agency):

October 11, 2006 to January 24, 2007

2. Time range of consultations pending with other agencies, by date of initial interagency communication:

None pending