

Out of Many/One Union  
AFGE NVAC/AFL-CIO

## NATIONAL VETERANS AFFAIRS COUNCIL

American Federation of Government Employees, Affiliated with the AFL-CIO

October 26, 2017

Timothy Graham  
Director, FOIA Service  
Veterans Health Administration  
Department of Veterans Affairs  
810 Vermont Avenue, NW  
Washington, DC 20420  
[vhfoia2@va.gov](mailto:vhfoia2@va.gov)  
*Sent via electronic mail only*

**RE: Freedom of Information Request  
Adverse Actions Report Data**

Dear Mr. Graham:

The American Federation of Government Employees, National Veterans Affairs Council ("AFGE/NVAC") makes this request for documents and records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. §552. AFGE/NVAC also relies on the January 21, 2009, Presidential Memorandum on FOIA issued by President Barack H. Obama. 74 Fed. Reg. 4683 (Jan. 26, 2009). In his January 2009 Presidential Memorandum, President Obama mandated that, "[t]he Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails," and he accordingly directed federal agencies, "to adopt a presumption in favor of disclosure . . ." *Id.*

AFGE/NVAC represents bargaining unit employees at the Department of Veterans Affairs. In this capacity, AFGE/NVAC requests true, accurate and legible copies of all records, in whatever format, in the possession, custody or control of the VA, including:

1. For each position listed in the VA Adverse Action Report: whether the employee is a veteran, bargaining unit status code, age, sex, race, and grade level.

AFGE/NVAC requests that the VA provide this information in electronic format, pursuant to 5 U.S.C. §522 (a)(3)(B).

This request for documents and records is severable. If the VA claims that certain records are not subject to disclosure or are exempt from disclosure under FOIA, AFGE/NVAC requests: 1) that the VA promptly disclose any segregable portion of the records sought; 2) that the VA indicate the amount of information withheld on the record; and 3) that the VA provide a detailed justification for each exemption claimed.

## ATTACHMENT A



Pursuant to 5 U.S.C. §552(a)(4)(A)(iii) and 6 CFR §5.11(k), AFGE/NVAC requests that the VA waive search and copying expenses for this request. Disclosure of the information requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the federal government, i.e., the VA. AFGE/NVAC also has no commercial interest in the requested information. Consequently, the VA should grant AFGE-GCO a fee waiver for this request.

Thus, AFGE/NVAC believes a fee waiver is appropriate. In the event, however, that the VA denies this fee waiver and the fees to comply with this request will exceed fifty dollars (\$50.00), please notify AFGE, as provided below, as soon as possible. Please direct the VA response(s), along with any related correspondence, questions or concerns regarding this FOIA request, to Ibidun Roberts at 202-639-6424. Electronic documents and mail may be sent to [ibidun.roberts@afge.org](mailto:ibidun.roberts@afge.org).

AFGE/NVAC looks forward to your reply within 20 business days, as the statute requires. If you have any questions about this request, please contact us as promptly as possible. Thank you for your cooperation.

Submitted by,

A handwritten signature in black ink, appearing to read 'Ibidun Roberts', with a long horizontal flourish extending to the right.

Ibidun Roberts  
Supervisory Attorney

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# United States Senate

COMMITTEE ON VETERANS' AFFAIRS  
WASHINGTON, DC 20510

June 15, 2018

The Honorable Michael J. Missal  
Office of Inspector General  
810 Vermont Ave, NW  
Washington, D.C. 20420

Dear Mr. Missal,

As you know, with strong bipartisan support, Congress passed and the President signed into law the Department of Veteran Affairs (VA) Accountability and Whistleblower Protection Act in June of 2017. Since that time, Congress has not received sufficient information about the implementation of this law from VA, including data mandated by statute. Therefore, we request that the Office of Inspector General conduct a thorough review of the matter to ensure implementation is being carried out consistent with law and Congressional intent.

In December 2017, VA was mandated to submit a report to congress that would include information and data about implementation of this law. Unfortunately, the "report" was unacceptable, as it did not include any of the requested tracking data sought by Congress as a benchmark for the implementation of the law moving forward. VA indicated that their inability to provide the Congress with this data was due to the lack of an appropriate tracking software. We have subsequently learned that this software has been acquired and implemented, yet Congress still lacks this information.

In the interim, we have had numerous VA employees and their representatives contact our offices about the law's implementation, indicating that the authorities provided by the law are being used in an inconsistent and inappropriate manner. Unfortunately, VA still has not been able to provide us with data that would alleviate our concerns or demonstrate in any way that application of these authorities has been consistent, fair, and appropriate.

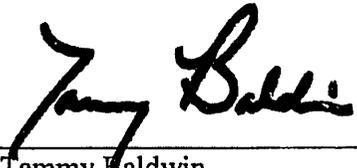
For that reason, we request that the OIG undertake a review of how VA has implemented this law and to provide a report back to the Committee on Veterans Affairs. We would appreciate the opportunity to have further conversations about the scope of the review in the coming weeks.

Sincerely,

  
Jon Tester  
United States Senator

  
Richard Blumenthal  
United States Senator

**ATTACHMENT B**



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Tammy Baldwin  
United States Senator



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Sherrod Brown  
United States Senator