

**NATIONAL RAILROAD PASSENGER CORPORATION**

**FREEDOM OF INFORMATION ACT ANNUAL REPORT**

**FISCAL YEAR 2004**

## TABLE OF CONTENTS

	Page
I. Basic Information Regarding the Report . . . . .	1
II. How to Make a FOIA Request . . . . .	2
III. Definition of Terms and Acronyms Used in this Report . . . . .	3
IV. Exemption 3 Statutes . . . . .	6
V. Initial FOIA Access Requests . . . . .	6
VI. Appeals of Initial Denials of FOIA Requests . . . . .	7
VII. Compliance with Time Limits and Status of Pending Requests . . . . .	8
VIII. Comparative Data . . . . .	9
IX. Administrative Costs and FOIA Staffing . . . . .	10
X. Fees . . . . .	10
XI. FOIA Regulations. . . . .	10

# NATIONAL RAILROAD PASSENGER CORPORATION

## FREEDOM OF INFORMATION ACT ANNUAL REPORT

FISCAL YEAR 2004

### I. Basic Information Regarding the Report

The Freedom of Information Act (FOIA) Office of the National Railroad Passenger Corporation (Amtrak) is responsible for the preparation of Amtrak's FOIA Annual Report. To obtain additional information or a copy of the report, contact:

Ms. Medaris Oliveri  
National Railroad Passenger Corporation  
Freedom of Information Office  
60 Massachusetts Avenue, N.E.  
Washington, DC 20002

Phone: 202/906-2728

Fax: 202/906-2169

A copy of Amtrak's annual FOIA report can also be obtained by accessing Amtrak's home page on the Internet at:

<http://www.Amtrak.com>

## II. **How to Make a FOIA Request**

### A. Name, Address, Phone Number, and Fax Number for Obtaining Information:

Specific information on how to submit a FOIA request from Amtrak can be obtained by writing to:

Ms. Medaris Oliveri  
National Railroad Passenger Corporation  
Freedom of Information Office  
60 Massachusetts Avenue, N.E.  
Washington, DC 20002

Information on how to make a FOIA request is also available at Amtrak's website at:

<http://www.Amtrak.com>

A FOIA request may be sent to Amtrak via fax at the following number:

Fax Number: 202/906-2169

### B. Response Time Ranges

Amtrak makes every effort to answer FOIA requests within the twenty business day period mandated by the 1996 Electronic FOIA amendments. Responses may be delayed, however, when it is necessary for the FOIA Office to contact field offices for information; to consult with other components of Amtrak having substantial interest in the records; and/or to confer with parties having a vested interest in the records requested regarding disclosure.

Other factors impacting Amtrak's response time are:

(1) requests that are improperly addressed, (2) requests that do not clearly describe the records sought, (3) requests that seek voluminous records, or (4) requests which do not include a statement that the requester is willing to pay applicable processing fees.

Amtrak's response time for FY2004 requests has been reported in both "calendar days" and "business days" for comparison with data reported for prior years.

For information concerning response times and the status of pending requests, refer to Section VII of this report.

### C. Why Some Requests Are Not Granted

It is Amtrak's policy to make records publicly available unless the record qualifies for one or more of the nine exemptions to the FOIA or the (c)(1) and (c)(2) exclusions. For example, some requests cannot be granted because of the need to protect confidential, privileged, or proprietary information; personal privacy interests; ongoing law enforcement proceedings or records concerning Amtrak's decision-making process. For these reasons, Amtrak may be unable to disclose certain records or parts of records.

## III. **Definition of Terms and Acronyms Used in This Report**

### A. Amtrak-specific acronyms or terms:

1. **National Railroad Passenger Corporation** -- NRPC, commonly known as Amtrak.
2. **President** -- President and Chief Executive Officer (CEO) of Amtrak or designee.

### B. Basic terms used in the report:

1. **Appeal** -- A request at a higher administrative level asking for review of a full or partial denial of access to records under the Freedom of Information Act (FOIA) or any other adverse determination such as a matter pertaining to fees.
2. **Business days** -- The number of "working days" (excluding intervening weekends, holidays, and any other day on which an entity subject to the FOIA is closed for official business) used in determining the response time for FOIA requests.

3. **Calendar days** -- The number of days from “date of perfection” to “date of completion” for each request used in compiling statistics for the annual FOIA report. Weekends, holidays, and other days during which an entity subject to the FOIA is closed for business are included in the calculations.
4. **Complex request** -- A FOIA request placed in a slower track for processing based on the volume and/or complexity of the records sought in the request.
5. **Denial** -- A decision not to release any part of a record or records in response to a FOIA request because all information in the requested records is determined to be exempt from disclosure under one or more of exemptions to the Act or for some procedural reason (i.e., no records could be located in response to a FOIA request).
6. **Exemption 3 statute** -- A federal statute prohibiting the disclosure of a certain type of information and authorizing the withholding of such information under subsection (b)(3) of the FOIA.
7. **Expedited processing** -- Processing of a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for records that warrants prioritization of that request over other requests that have been submitted for processing. Refer to 49 CFR § 701.7(e).
8. **Freedom of Information Act (FOIA)** -- (5 U.S.C. § 552) Generally provides any person with a right to access to records of entities subject to the Act, except to the extent that such records or parts thereof are protected from disclosure by one of nine exemptions or one of three special law enforcement record exclusions.
9. **FOIA request** -- A Freedom of Information Act (FOIA) request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest.
10. **Grant** -- A decision to disclose all records in full in response to a FOIA request.
11. **Initial request** -- A request for access to records under the FOIA.
12. **Median number** -- The middle number.
13. **Multi-track processing** -- A system in which requests that require relatively minimal review are classified as simple requests and are placed in one processing track. Requests that seek voluminous records or that are complex in nature are placed in one or more other tracks. Requests in each track are processed on a first-in/first-out basis. A requester with an urgent need may request expedited processing.
14. **Partial grant** -- A 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 exemptions to the FOIA or a decision to disclose some records in their entirety and to withhold other records in toto or in part.

15. **Pending request** -- A perfected or unperfected FOIA request that is pending at the end of the reporting period.
16. **“Perfected” request** -- A FOIA request for records received by the FOIA Office that adequately describes the records sought and for which there is no remaining question about the payment of applicable fees.
17. **Processed request or appeal** -- A request or appeal in which final action has been taken in all respects.
18. **Simple request** -- A FOIA request placed in the fastest (nonexpedited) track for processing based on the volume and/or complexity of the records sought in the request.
19. **Time limits** -- The time period specified in the Freedom of Information Act for a response to a request (ordinarily twenty business days from proper receipt of a “perfected” FOIA request).

C. “Other Reasons” cited on initial and appeal determinations

1. **Duplicate request** -- A request for the same information by the same requester. This includes identical requests received via different means (e.g., e-mail, fax, mail, courier) at the same or different times.
2. **Fee-related reason** -- The requester has not agreed to pay fees associated with the request, is past due paying fees associated with a previous FOIA request, or disagrees with a fee estimate.
3. **No Records** -- A reasonable search of files failed to identify records responsive to the request.
4. **Not a proper FOIA request for some other reason** -- The requester failed to comply with legitimate procedural requirements that are not fee-related.
5. **Not an Amtrak record** -- The requested information was not a record within the meaning of FOIA.
6. **Other reasons for nondisclosure** -- Any other reason a requester does not comply with published rules.
7. **Records not reasonably described** -- The request could not be acted upon due to the fact that records sought in the request were not sufficiently described to permit Amtrak 's staff to locate them by conducting a reasonable search.
8. **Referrals** -- The request was referred to a federal agency for action.
9. **Withdrawn** -- The request was withdrawn by the requesting party.

#### IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation
49 U.S.C. § 24301 note	Bid proposals not incorporated in contract.	None

#### V. Initial FOIA Access Requests

##### A. Numbers of Initial Requests:

1.	Number of requests pending at the end of Fiscal Year 2003	<b>23</b>
2.	Number of requests received during Fiscal Year 2004	<b>223</b>
3.	Number of requests processed during Fiscal Year 2004	<b>230</b>
4.	Number of requests pending at the end of Fiscal Year 2004	<b>16</b>

The term "pending" encompasses unanswered, perfected or unperfected requests.

##### B. Disposition of Initial Requests:

1.	Number of total grants	<b>63</b>
2.	Number of partial grants	<b>24</b>
3.	Number of denials	<b>11</b>

##### a. Number of Times Each FOIA Exemption Used: (each exemption counted only once per request)

(1)	Exemption 1	<b>0</b>
(2)	Exemption 2	<b>4</b>
(3)	Exemption 3	<b>6</b>
(4)	Exemption 4	<b>12</b>
(5)	Exemption 5	<b>14</b>
(6)	Exemption 6	<b>18</b>
(7)	Exemption 7 (A)	<b>0</b>

(8)	Exemption 7(B)	<b>0</b>
(9)	Exemption 7(C)	<b>1</b>
(10)	Exemption 7(D)	<b>1</b>
(11)	Exemption 7(E)	<b>0</b>
(12)	Exemption 7(F)	<b>0</b>
(13)	Exemption 8	<b>0</b>
(14)	Exemption 9	<b>0</b>

4.	Other Reasons for Nondisclosure:	Total:	132
(a)	No records		7
(b)	Referrals to other entities subject to the FOIA		0
(c)	Request withdrawn		14
(d)	Fee-related reason		44
(e)	Records not reasonably described		19
(f)	Not a proper FOIA request for some other reason		13
(g)	Not an agency record		6
(h)	Duplicate request		29
(i)	Other reasons for nondisclosure		0

## VI. Appeals of Initial Denials of FOIA Requests

### A. Number of Appeals:

1.	Number of appeals received during FY2004	6
2.	Number of appeals processed during FY2004	6

### B. Disposition of Appeals:

1.	Number of completely upheld	4
2.	Number of partially reversed	0
3.	Number completely reversed	0

#### a. Number of times each FOIA exemption asserted (each exemption counted only once per appeal)

(1)	Exemption 1	0
(2)	Exemption 2	0
(3)	Exemption 3	0
(4)	Exemption 4	1
(5)	Exemption 5	1
(6)	Exemption 6	3
(7)	Exemption 7 (A)	0

(8)	Exemption 7(B)	0
(9)	Exemption 7(C)	0
(10)	Exemption 7(D)	0
(11)	Exemption 7(E)	0
(12)	Exemption 7(F)	0
(13)	Exemption 8	0
(14)	Exemption 9	0

4. Other Reasons for Nondisclosure	Total:	<b>2</b>
(a) No records		<b>0</b>
(b) Referrals to other entities subject to the FOIA		<b>0</b>
(c) Appeal withdrawn		<b>1</b>
(d) Fee-related reason		<b>1</b>
(e) Records not reasonably described		<b>0</b>
(f) Not a proper FOIA request for some other reason		<b>0</b>
(g) Not an Amtrak record		<b>0</b>
(h) Duplicate request		<b>0</b>
(i) Other reasons for nondisclosure		<b>0</b>

## VII. Compliance with Time Limits and Status of Pending Requests

### A. Median Processing Time for Requests Processed during the Year:

1. Simple Requests Processed during FY2004		
(a)	Number of requests processed	<b>48</b>
(b)	Media number of days to process	<b>1 calendar day 1 business day</b>

2. Complex Requests Processed during FY2004		
(a)	Number of requests processed	<b>182</b>
(b)	Median number of days to process	<b>30 calendar days 21 business days</b>

3. Expedited Requests Processed during FY2004		
(a)	Number of requests processed	<b>0</b>
(b)	Median number of days to process	<b>0</b>

### B. Status of Pending Requests:

1.	Number of requests pending at the end of FY2004	<b>16</b>
2.	Median number of days that requests were pending	<b>57 calendar days 40 business days</b>

## VIII. Comparative Data

A. Below is a table showing comparative data regarding the number of requests received by Amtrak during fiscal years 1997 through 2004.

FY97	FY98	FY99	FY00	FY01	FY02	FY03	FY04
72*	101	172	193	202	197	178	223

B. Below is a table that shows the number of requests processed during the eight-year period.

FY97	FY98	FY99	FY00	FY01	FY02	FY03	FY04
77*	108	173	194	215	167	203	230

\*January-October

C. During FY2004, Amtrak received one request for expedited processing that did not meet requirements established in Amtrak's FOIA regulations, 49 CFR 701.7(e), and the request was denied.

D. Actions undertaken by Amtrak during FY2004 to improving the timeliness of FOIA responses and to make records available to the public:

- Amtrak experienced a 25 percent increase in the number of FOIA requests received during FY04 when compared with FY03. The number of requests processed in FY04 increased by 13 percent when compared with FY03 and by 38 percent when compared with FY02.
- Amtrak initiated the procurement of an electronic system for tracking FOIA requests.
- One-part-time employee was added to the staff of the FOIA Office at mid-year in FY04. This position was also responsible for records management.
- The FOIA staff received additional training through seminars sponsored by the Department of Justice (DOJ).
- Amtrak's FOIA Handbook was revised and expanded to provide more information regarding the processing of FOIA requests.
- Amtrak's website was redesigned to make it more user friendly.

## IX. Administrative Costs and FOIA Staffing

### A. Staffing Levels:

1.	Number of full-time FOIA personnel	0
2.	Number of personnel with part-time or occasional FOIA duties (total work years)	0.60*
3.	Total number of personnel (work years)	0.60*

### B. Total Costs (including staff and all resources) (Estimated)

1.	FOIA processing (including appeals)	\$ 62,037
2.	Litigation-related activities (estimated)	\$ 17,562*
3.	Total costs	\$ 79,599* **

\*Includes outside counsel hours and fees

\*\*Amtrak does not track all of its FOIA processing costs.

## X. Fees

1.	Fees collected for processing requests	\$ 5,925
2.	Percentage of total costs	7.44%**

## XI. FOIA Regulations (including Fee Schedule)

No changes were made in Amtrak's FOIA regulations (49 CFR 701) during FY2004. These regulations can be accessed through the Internet at:

<http://www.Amtrak.com>