

Chief FOIA Officer Report

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**NATIONAL RAILROAD PASSENGER CORPORATION ("AMTRAK")
CHIEF FOIA OFFICER REPORT**

MARCH 2014

I. Steps taken to apply the Presumption of Openness

Describe steps taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

Amtrak has taken the following steps in ensuring that the presumption of openness is being applied to all decisions involving the FOIA:

When reviewing responsive records, Amtrak's FOIA Office makes sure that a detailed search has been conducted.

The FOIA Office makes every effort to disclose the most segregable portions of records in its responses to requesters as well as providing assistance when clarification is needed.

Amtrak also considers the date of responsive records to determine if the passage of time has diminished some of the significance of the record and thereby making it releasable without causing any harm to Amtrak.

Training

1. *Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?*
 - a. Yes. The FOIA Office conducted a departmental FOIA training presentation as well as provided individual instructions to employees that stressed the importance of adhering to the rules and regulations of the FOIA.
2. *If so, provide the number of conferences or trainings held, a brief description of the topics covered and an estimate of the number of participants who were in attendance.*

The FOIA Office conducted a FOIA presentation for Amtrak's Human Capital employees located in Delaware. There were 2 presentations given on the same day with approximately 40 employees attending. The presentation covered the Freedom of Information Act and Amtrak's responsibilities in complying with the Act, statutory response times, records retrieval, misdirected FOIA requests, and Amtrak's FOIA and appeals processes.

3. *Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?*

Yes – DOJ, FOIA Administrative Forum

4. *Provide an estimate of the percentage of your FOIA professionals who attended substantive FOIA training during this reporting period?*

Approximately 40%.

5. *Provide your agency's plan for ensuring that such training is offered to all agency FOIA professionals by March 2015.*

The FOIA Office will provide all FOIA professionals with DOJ training schedules and make sure that all are scheduled for the appropriate training by March 2015.

Outreach

6. *Did your FOIA professionals engage in any outreach and dialogue with the requester community or open government groups regarding your administration of the FOIA?*

Amtrak has not engaged in any outreach or dialogue with the requester community or open government groups regarding our FOIA administration due to the limited amount of requests from these groups.

Discretionary Disclosures

7. *Does your agency have a formal process in place to review records for discretionary release. If so, please briefly describe this process. If your agency is decentralized, please specify whether all components at your agency have a process in place for making discretionary releases.*

Yes. The FOIA Officer confers with the Chief FOIA Officer, legal counsel and senior staff in order to make determinations as to whether the disclosure of certain records would cause competitive harm to Amtrak. Amtrak also considers the date of responsive records to determine if the passage of time has diminished some of the significance of the record and thereby making it releasable without causing any harm to Amtrak.

Amtrak also confers with submitters of information concerning requested records in making determinations regarding discretionary disclosures.

Amtrak's FOIA Office is centralized.

8. *During the reporting period did your agency make any discretionary releases of otherwise exempt information?*

No

9. *What exemptions would have covered the information that was released as a matter of discretion?*

Not applicable, see item 8.

10. *Provide a narrative description, or some examples of, the types of information that your agency released as a matter of discretion.*

Not applicable, see item 8.

11. *If your agency was not able to make any discretionary releases of information, please explain why.*

The records that were released were non-exempt records.

The information that was withheld under one of the 9 exemptions could not be disclosed without causing competitive harm, invasion of privacy, law enforcement disclosures, pre-decisional data, attorney-work/attorney client privileges and other exempt information.

Other Initiatives

12. *Did your agency post all of the required quarterly FOIA reports for Fiscal Year 2013? If not, explain why not and what your plan is for ensuring that such reporting is successfully accomplished for Fiscal Year 2014.*

Yes, Amtrak posted all of the required quarterly FOIA reports for FY13.

13. *Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied. If any of these initiatives are online, please provide links.*

Amtrak often receives requests whereby records are not clearly defined. In such cases, the FOIA Officer reaches out to the requester to help clarify requests for records and often provides information, which may help the requester in obtaining the records they are seeking. On some occasions, conference calls are set up with the requester and Amtrak personnel to ensure that the requester is provided with the most responsive information.

II. Steps taken to ensure that Your Agency has an Effective System for Responding to Requests

Describe steps taken to ensure that your agency system for responding to requests is effective and efficient.

Amtrak has instituted the following system to ensure that requests are responded to effectively:

Incoming FOIA requests are screened by Amtrak's FOIA Office to ensure that all requirements are satisfied. The requests are entered in the FOIA electronic tracking system, which allows the FOIA Officer to keep an accurate count of the number of incoming requests as well as their status. The FOIA electronic system has several capabilities, such as scanning, redacting, producing customized reports as well as Amtrak's FOIA Annual Report.

When reviewing responsive records, Amtrak's FOIA Office makes sure that all responsive records have been retrieved.

To ensure that requests are being responded to effectively, the FOIA Officer attends FOIA training hosted by the U.S. Department of Justice (DOJ), which provides guidance on responding to requesters as well as addressing such FOIA-related issues as disclosure, litigation, administration, and instructions on rules and regulations governing the FOIA.

The FOIA Officer references the DOJ FOIA Guide for procedural requirements, exemptions and litigation as well as legal guides for case law in responding to requests. In addition, the FOIA Officer is also supported by the Amtrak Law Department and when appropriate consults with legal counsel in making determinations regarding requests.

The FOIA Office makes every effort to disclose the most segregable portions of records in its responses to requesters as well as providing assistance when clarification is needed.

Personnel

1. *Has your agency converted all of its FOIA professionals to the new Government Information Specialist job series?*

No, Amtrak has not converted its FOIA professional positions to the new GIS job series. We have not done so, because Amtrak is not a federal agency or federal entity that operates under the federal government GS or SES or other OPM position classification system. Rather, Amtrak is a for profit corporation organized under the District of Columbia business corporation statute and made subject to FOIA by Congress. The Law department which houses Amtrak's FOIA function and staff has consulted our Human Capital Management department and confirmed that Amtrak has its own job classification system (Bands (E through A) and Zones for each Band) for all positions in the company. Amtrak's Chief FOIA Officer, who is a senior attorney, is an E-2 position, and our FOIA Administrator is a C-1 position. These positions are appropriately aligned within Amtrak's job classification system.

2. *If not, what proportion of personnel has been converted to the new job series?*

See item 1.

3. *If not, what is your plan to ensure that all FOIA professionals' position descriptions are converted?*

See item 1.

Processing Procedures

4. *For Fiscal Year 2013, did your agency maintain an average of ten or less calendar days to adjudicate requests for expedited processing? If not, describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.*

Yes, Amtrak took an average of 1 day to adjudicate requests for expedited processing.

5. *Has your agency taken any steps to make the handling of consultations and referrals more efficient and effective?*

When receiving referrals Amtrak immediately contacts the Department responsible for reviewing records and sets a deadline for the response time.

Requester Services

6. *Do you use e-mail or other electronic means to communicate with requesters when feasible?*

Yes

7. *Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS)?*

No, however, in instances whereby there is a need for mediation, requesters will be informed of OGIS services.

8. *Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc.*

Amtrak's FOIA personnel have quarterly meetings to discuss such issues as backlog reduction, the use of discretionary disclosures, and timeliness in responding to internal requests for records.

The FOIA Office also met with FOIA-related industry professionals who discussed Amtrak's FOIA operations and offered recommendations that could help enhance Amtrak's response times using the electronic tracking system.

III. Steps Taken to Increase Proactive Disclosures

Describe steps taken to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures.

Amtrak has a user friendly website, which contains some of the latest information regarding the Northeast Corridor, Amtrak's Business Plans, and the Passenger Rail Improvement and Investment Act (PRIIA). Also posted is information regarding finances, performance, legislation, environmental issues and Amtrak's operations.

Amtrak realizes how the public uses social media to stay up to date on what's going on and therefore has created Instagram, Facebook, Google, Twitter accounts. Amtrak also has a blog where information is provided. The public is able to connect and ask questions, keep track of train operations, apply for jobs as well as find out about the best travel destinations. Amtrak also has a mobile app that the public can use to purchase tickets.

The above referenced information can be found at www.amtrak.com, click on "About Amtrak" located at the bottom of the screen.

Posting Material

1. *Do your FOIA professionals have a system in place to identify records for proactive disclosures?*

Amtrak's FOIA professionals do not have a formal system in place at this time, however, the FOIA Office is currently in discussions with the Chief FOIA Officer regarding proactive disclosures.

2. *If so, describe the system that is in place.*

See item 1.

3. Provide examples of material that your agency has posted this past reporting period, including links to where this material can be found online.

Listed below is some of the more recent information which has been posted on Amtrak's website located at www.amtrak.com:

Equality and Diversity

Equal Employment Opportunity Policy
American with Disabilities Act (ADA)
Family and Medical Leave Act (FMLA)

PRIIA Submissions and Reports

<http://www.amtrak.com/ccurl/937/861/ADA-Update-to-Congress-October-2013.pdf>

Update to Congress on Amtrak Accessible Stations Development Program
– October 11, 2013

Comprehensive Business Plan

<http://www.amtrak.com/ccurl/976/814/Amtrak-Five-Year-Financial-Plan-FY2013-2017,0.pdf>

Fiscal Year 2013-2017 Five Year Financial Plan

Grant and Legislative Requests

<http://www.amtrak.com/ccurl/531/509/Amtrak-FY14-Grant-Legislative-Requests.pdf>

Fiscal Year 2014 Grant and Legislative Requests – March 27, 2013

Monthly Performance Reports

<http://www.amtrak.com/ccurl/380/239/Amtrak-Monthly-Performance-Report-November-2013.pdf>

March 2013 – November 2013

In addition, Amtrak has its own Blog, which is located at:

<http://blog.amtrak.com/>

Making Posted Material More Useful

- 4. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities on the site, creating mobile applications, providing explanatory material, etc?.*

As stated above, Amtrak's Instagram, Facebook, Google, twitter accounts, Blog (Amtrak Blog) and mobile applications allows interaction with the public. Since Amtrak's website is also customer/passenger oriented, Amtrak teamed up with Google to create an interactive train locator map, which is located on www.amtrak.com.

Additionally, Amtrak has a section on its website that's called "Browse Topics," which lists reports and data regarding Amtrak. The user is able to select a topic of interest without searching the entire website. Outside media are also given direct contact information for Amtrak's Media personnel. On Amtrak's Procurement website, the public is able to select a state and to find out if there are any bid solicitations for that particular area.

- 5. If so, provide examples of such improvements.*

See item 4 above.

- 6. Did your agency use any means to publicize or highlight important proactive disclosures for public awareness: If so, was social media utilized?*

Yes. Amtrak has used its twitter accounts, Facebook, Google and Amtrak blog to make disclosures. For example, Amtrak's blog has posted the announcement of the "new 130 Long Distance Single Level Cars coming to the rails by 2014" and "New Locomotives Roll Off Assembly Line." Amtrak has also used Instagram to keep the public abreast of our environmental efforts, "going green".

7. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post? If so, please briefly explain what those challenges are.*

No.

8. *Describe any other steps taken to increase proactive disclosures at your agency.*

Amtrak's senior staff usually reviews reports and provides this information to the IT Department for posting. Some reports are posted on a monthly basis, such as the Monthly Performance Reports.

IV. Steps taken to Greater Utilize Technology

Online tracking of FOIA requests

1. *Can a FOIA requester track the status of his/her request electronically?*

No, however, when requested, the FOIA Office provides requesters with an up to date status of their request. The response is usually provided via e-mail.

2. *If yes, how is this tracking function provided to the public? For example, is it being done through regularly updated FOIA logs, online portals, or other mediums?*

Not applicable - see item 1.

3. *Describe the information that is provided to the requester through the tracking system. For example, some tracking systems might tell the requester whether the request is "open" or "closed," while others will provide further details to the requester throughout the course of the processing, such as "search commenced" or "documents currently in review." List the specific types of information that is available through your agency's tracking system.*

Not applicable - see item 1.

4. *In particular, does your agency tracking system provide the requester with an estimated date of completion for his or her request?*

Not applicable - see item 1.

5. *If your agency does not provide online tracking of requests, is your agency tacking steps to establish this capability? If not, please explain why.*

Not at this time, due to budgetary restraints. Although the FOIA Office does not post statuses online, requesters can obtain a status of their request via e-mail whereby the FOIA Office provides a detailed response regarding the processing of their request.

Use of technology to facilitate processing of requests

6. *Beyond using technology to redact the document, is your agency tacking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?*

Amtrak has an electronic email software package that performs global searches. Amtrak also utilizes document sharing software for access to records and files.

7. *If so, describe the technological improvement being made.*

The document sharing program Amtrak utilizes makes it easier to access records and the electronic email searches help to reduce the time it takes to process a request.

8. *Are there additional technological tools that would be helpful to achieving further efficiencies in your agency's FOIA program?*

Not at this time. Amtrak uses an electronic FOIA tracking system that is quite efficient.

V. Steps taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

Simple Track Requests

- a. *Does your agency utilize a separate track for simple requests?*

Yes.

- b. *If so, for your agency overall, for Fiscal Year 2013, was the average number of days to process simple requests twenty working days or fewer?*

Yes, 4.17 days.

- c. *If your agency does not track simple request separately, was the average number of days to process non-expedited requests twenty working days or fewer?*

Not applicable.

Backlogs

- a. *If your agency had a backlog of requests at the close of Fiscal Year 2013, did that backlog decrease as compared with Fiscal Year 2012?*

No. FY12 Backlog of Requests - 6
FY13 Backlog of Requests - 25

- b. *If your agency had a backlog of appeals in Fiscal Year 2013, did that backlog decrease as compared to Fiscal year 2012?*

No. FY12 Backlog of Appeals – 1
FY13 Backlog of Appeals - 3

Ten Oldest Requests

- c. *In Fiscal Year 2013, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2012?*

Yes.

- d. *If no, please provide the number of these requests your agency was able to close by the end of the fiscal year.*

Not applicable, see item c.

Ten Oldest Appeals

- e. *In Fiscal Year 2013, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012?*

No, however Amtrak did not have 10 appeals, there was 1 appeal pending at the beginning of the fiscal year and 4 received. Due to the sensitive nature and complexity of the appeal that was carried over from 2012, it was not closed in FY13. Additional research and legal consultations have been needed in order to close the appeal.

- f. *If no, provide the number of these appeals your agency was able to close by the end of the fiscal year.*

There were 2 appeals closed by the end of the fiscal year.

Ten Oldest Consultations

- g. *In Fiscal Year 2013, did your agency close the ten oldest consultations received by your agency and pending as of the end of Fiscal Year 2012?*

Not applicable – Amtrak did not receive any consultations in FY13 and FY12.

- h. *If no, please provide the number of these consultations your agency did close.*

Not applicable – see item g.

Request and/or Backlog

- a. *Was the lack of a reduction in the request and/or appeal backlog a result of an increase in the number of incoming requests or appeals?*

There was an increase in appeals and the incoming requests were much more complex.

- b. *Was the lack of reduction in the request and/or appeal backlog caused by a loss of staff?*

No.

- c. *Was the lack of a reduction in the request and/or appeal backlog caused by an increase in the complexity of the requests and/or appeals received?*

Yes – the requests and appeals were much more complex and at times involved a voluminous amount of records. There was also an increase in appeals.

- d. *What other causes, if any, contributed to the lack of a decrease in the request and/or appeal backlog?*

Other than having to review a large amount of records and the complexity of the request, there was no other cause for the lack of decrease in the backlogs.

Ten Oldest Not Closed

- e. *Briefly explain the obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from FY 2012.*

Amtrak closed its 10 oldest requests.

There were no consultations for FY12 and FY13.

Amtrak received an increased number of appeals in FY13 than in recent years. Several of the appeals were associated with complex requests, which required additional research and legal consultations in order to close the appeals.

- f. *If your agency was unable to close any of its ten oldest requests or appeals because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.*

Not Applicable – Amtrak did not have any consultations for FY13 and FY12.

Plans for Closing of Ten Oldest Pending Requests, Appeals and Consultations, and Reducing Backlogs

If your agency did not close its ten oldest pending requests, appeals, and consultations, please provide a plan describing how your agency intends to close those “ten oldest” request, appeals, and consultations during Fiscal Year 2014.

Amtrak has 3 backlogged appeals. The Appeals Officer is currently working on responding to the appeals. The FOIA staff has been assisting the Appeals Officer with research and review. The ten oldest requests and backlogged appeals have been made a priority and dates have been set in meeting the goal of closing the oldest requests and appeals by the end of FY14.

If your agency had a backlog of more than 1,000 pending requests and did not reduce that backlog in Fiscal Year 2013, provide your agency’s plan for achieving backlog reduction in the year ahead.

Not Applicable – Amtrak had a backlog of 25 requests.

Interim Responses

Does your agency have a system in place to provide interim responses to requesters when appropriate?

Yes – When extremely complex requests involving large amounts of records are received, the FOIA Office informs the requester that interim responses will be provided. An approximate date for the next interim

response is also provided. Amtrak also advises the requester that they may reserve their right to appeal until after they have received their final response to their request.

If your agency had a backlog in Fiscal Year 2013, provide an estimate of the number of cases in the backlog where a substantive, interim response was provided during the fiscal year, even though the request was not finally closed.

1 Interim Response

Use of FOIA's Law Enforcement Exclusions

1. Did your agency invoke a statutory exclusion during Fiscal Year 2012?

No, Amtrak did not invoke a statutory exclusion during Fiscal Year 2012.

2. If so, what was the total number of times exclusions were invoked?

Not applicable – see item 1.

Spotlight on Success

During the fiscal year Amtrak, received several requests regarding noise assessments of Amtrak trains for different areas of the country. This information usually pertains to the number of times Amtrak trains move through different communities, the number of cars, type of cars, type of tracks etc. Due to the expertise of Amtrak's Mechanical and Engineering personnel, the FOIA Office is able to fully disclose this information in 1-2 business days. Sometimes this information is needed for new development projects in communities throughout the United States.