

# Chief FOIA Officer Report

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March 2017



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

**Diane L. Herndon – Chief FOIA Officer**

**MARCH 2017**

**I. Steps taken to Apply the Presumption of Openness**

**A. FOIA Training:**

1. *Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conferences during the reporting period such as that provided by the Department of Justice?*

Yes.

2. *If yes, please provide a brief description of the type of training attended and the topics covered.*

FOIA for Attorneys and Access Professionals (July 12-13, 2016)

- Achieving Transparency through proactive disclosures
- FOIA Exemptions overview
- Fees and Fee Waivers

FOIA Public Liaison and FOIA Requester Service Center Training (August 15, 2016)

- The importance of the agency FOIA Public Liaison for mediating disputes with requesters as well as OGIS.
- Ensure that requesters are informed of their options for contacting the FOIA Public Liaison when providing determinations on requests.

3. *Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during the reporting period.*

100%.

4. *OIP has directed agencies to “take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year.” If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency’s plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.*

N/A – see item 2.

**B. Outreach**

5. *Optional*

**C. Other Initiatives**

6. *Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA?*

An internal FOIA training was conducted by the FOIA Office. Amtrak employees were instructed on the rules and regulations of the FOIA and the importance of Amtrak complying with these regulations.

7. *Is there any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.*

Amtrak often receives requests for records that are not clearly defined. In such cases, the Lead FOIA Specialist 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.

**II. Steps Taken to Ensure that Your Agency has an Effective System in Place for Responding to Requests**

**A. Processing Procedures**

1. *For Fiscal 2016 what was the average number of days your agency reported for adjudicating requests for expedited processing?*

Amtrak took 1 day to adjudicate requests for expedited processing.

2. *If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.*

N/A see item 1.

3. *OPTIONAL.*

4. *Please provide an estimate of how many requests your agency processed in Fiscal Year 2016 that were from commercial use requesters.*

Amtrak processed approximately 100 requests from commercial use requesters. Amtrak's FOIA Office is centralized.

## **B. Requester Services**

5. *OPTIONAL.*
6. *The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of how often requesters sought assistance from your agency's FOIA Public Liaison.*

Although requesters were provided with Amtrak's FOIA Public Liaison contact information, no requesters sought assistance.

7. *The FOIA Improvement Act of 2016 requires agencies to make their reference or guide for requesting records or information from the agency electronically available to the public. Please provide a link to your agency's FOIA reference guide.*

[www.amtrak.com/foia](http://www.amtrak.com/foia)

## **C. Other Initiatives**

8. *If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as improving search processes, eliminating redundancy, etc. please describe them here.*

None at this time.

## **III. Steps Taken to Increase Proactive Disclosures**

### **A. Posting Material**

1. *Describe your agency's process or system for identifying "frequently requested" records required to be posted online.*

The FOIA Office makes decisions regarding the disclosure of frequently requested records and departments are notified. Amtrak is currently in the process of setting up a more formal process for identifying frequently requested records.

2. *Does your agency have a distinct process or system in place to identify other records for proactive disclosure? If so, please describe your agency process or system.*

Amtrak departmental senior staff reviews all information (i.e., monthly performance reports, Congressional testimonies, environmental reports, business plans, audits etc.) and makes determinations regarding proactive disclosure. Amtrak departments make these decisions without the involvement of the FOIA Office. This information is provided as a public service.

3. *Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?*

No.

4. *If so, briefly explain those challenges and how your agency is working to overcome them?*

N/A – see item 3.

5. *Provide examples of materials that your agency has proactively disclosed during the past reporting year, including links to the posted material.*

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

The above referenced information can be found at [www.amtrak.com](http://www.amtrak.com), click on "About Amtrak" located at the bottom of the screen.

Listed below is some of the more recent information which has been posted on the above-referenced website:

- Audited Consolidated Financial Statements – FY16
- Grant and Legislative Requests - FY17
- FY16 Budget, Business Plan. FY17 Budget Justification and FY18-20 Five-Year Financial Plan

6. *Did your agency use any means to publicize or highlight important proactive disclosures for public awareness? If yes, please describe those efforts.*

Amtrak has Facebook, blogs, twitter and Instagram accounts that it uses to provide information to the public, in addition to media press releases.

## **B. Other Initiatives**

- 7. If there are any other steps your agency has taken to improve proactive disclosures, please describe them here. For example has your agency engaged requesters in determining how and what to post? Has your agency used web analytics to inform your increase proactive disclosures*

Not at this time.

## **IV. Steps Taken to Greater Utilize Technology**

### **A. Making Material Posted Online More Useful**

- 1. 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?*

Yes.

- 2. If yes, please provide examples of such improvements?*

As stated in item 6 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](http://www.amtrak.com).

### **B. Other Initiatives**

- 3. Did your agency successfully post all four quarterly reports for Fiscal Year 2016?*

Yes.

- 4. If your agency did not successfully post all quarterly reports, with information appearing in FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2017.*

N/A – see item 3.

**V. Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs**

**A. Simple Track Requests:**

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

Yes.

2. *If so, for your agency overall, for Fiscal Year 2016, was the average number of days to process simple requests twenty working days or fewer?*

No.

3. *Please provide the percentage of requests processed by your agency in Fiscal Year 2016 that were placed in your simple track?*

42.13%

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

N/A see item 1.

**B. Backlogs**

**Backlogged Requests**

5. *If your agency had a backlog of requests at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015? If not, explain why and describe the cause that contributed to your agency not being able to reduce its backlog.*

No. FY16 Backlog of Requests - 76  
FY15 Backlog of Requests - 34

6. *If not, explain why and describe the causes that contributed to your agency not being able to reduce its backlog.*

During FY16 there was a temporary loss of staff in the FOIA Office. Also, in FY15 there was approximately a 29% increase in requests. Many of these requests were carried over into FY16. These types of requests were extremely complex and often required the review of large numbers of records. Such

requests sought records of highly publicized investigation, Amtrak's business financial records, Agreements with vendors, and Amtrak Police records, which often involved sensitive data. In cases where requests involved the review of large numbers of records, requesters were provided with interim responses. Also, in many instances, due to the nature of some requests, the FOIA Office had to contact several Amtrak office for responsive records (unusual circumstances).

7. *If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2016.*

32.48%

### **Backlogged Appeals**

8. *If your agency had a backlog of appeals at the close of Fiscal Year 2016, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2015?*

No.

FY16 Backlog of appeals: 10

FY15 backlog of appeals: 4

9. *If not, explain why and describe the causes that contributed to your agency not being able to reduce backlog.*

The appeals were extremely complex and required the Appeals Officer to consult with various Amtrak departments.

10. *If you had an appeal backlog, please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2016.*

250%

### **C. Status of Ten Oldest Requests, Appeals and Consultations**

#### **Ten Oldest Requests:**

11. *In Fiscal Year 2016, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2015 Annual Report?*

No.

12. *If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2014 Annual Report?*

5.

13. *Of the requests your agency was able to close from your ten oldest, please indicate how many of these were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?*

Two (2) were withdrawn. No interim responses were provided.

**Ten Oldest Appeals:**

14. *In Fiscal Year 2016, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2015 Annual FOIA Report?*

No.

15. *If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C. (5) of your Fiscal Year 2015 Annual FOIA Report. .*

In FY16 three (3) appeals were closed from FY15 Annual Report.

**Ten Oldest Consultations:**

16. *In Fiscal Year 2016, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2015 Annual FOIA Report?*

Amtrak did not have any pending consultations for FY15.

17. *If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C of your Fiscal Year 2014 Annual FOIA Report. If you had less than ten total consultations to close, please indicate that.*

N/A see item 16.

**D. Additional Information on Ten Oldest Requests, Appeals and Consultations & Plans**

18. *Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2015.*

Many of these requests were complex and required, in some instances, the processing of large amounts of records.

19. *If your agency was unable to close any of its ten oldest requests 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*

N/A see item 16.

20. *.If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during Fiscal Year 2017.*

The FOIA Office will continue to work closely with requesters and provide interim responses when needed. Deadlines will be set for responding to the oldest requests. The FOIA Office has also added additional personnel. FOIA Office is also in the process of working with Amtrak personnel to start posting records, in compliance with the New FOIA Amendments. This process will help decrease the number of incoming requests and provide more time for FOIA staff to work on reducing the backlog.

The Appeals Officer is currently working closely with Amtrak personnel and setting deadlines for responses to appeals.

Amtrak did not have any consultations during FY16.