

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

MARCH 2012

I. Steps taken to apply the Presumption of Openness

- 1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?*

The FOIA Office provided individual instruction to employees via e-mail that stressed the importance of adhering to the rules and regulations of the FOIA.

- 2. Did your FOIA professionals attend any FOIA training such as that provided by the DOJ?*

Yes, Amtrak's FOIA Officer attended training conducted by DOJ, the Association of Access Professional and FOIAXpress.

- 3. Did your agency make any discretionary releases of otherwise exempt information?*

Yes. Amtrak has released records which were determined to be pre-decisional, such as drafts used for producing reports, and on occasion, some financial information, witness statements and records regarding Amtrak's deliberative process.

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

The above-referenced records would have been withheld under exemption 5 of the FOIA

- 5. Describe your agency's process to review records to determine whether discretionary releases are possible.*

The FOIA Office reviews records and consults with Amtrak's legal counsel to determine whether there can be a discretionary disclosure of certain records without causing any financial harm or resulting in a security risk to Amtrak. Other Amtrak personnel may also be consulted such as the Amtrak Police and Security, Marketing and Finance Departments.

6. *Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.*

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 all responsive records have been located.
- 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.

7. *Did your agency have an increase in the number or responses where records were released in full?*

Yes. Number of Full Grants FY 11 - 59
Number of Full Grants FY 10 - 53

8. *Did your agency have an increase in the number of responses where records were released in part?*

Yes. Number of Responses released in part FY 11 - 34
Number of Responses released in part FY 10 - 26

Part II. [Steps taken to ensure that Your Agency has an Effective System for Responding to Requests](#)

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.

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. Additional training has also been provided by the American Society of Access Professionals (ASAP), which hosts training conferences on 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.

1. Do FOIA professionals within your agency have sufficient IT support?

Yes. Amtrak's IT Department is often called on to provide records that are requested in electronic formats that are not necessarily provided by the FOIA Office.

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

Yes, the Chief FOIA Officer is called upon to make decisions regarding policy and the processing of FOIA request. The Chief FOIA Officer also conducts a quarterly FOIA meeting which is held to discuss the status of pending requests, training and other FOIA-related issues.

3. Do your FOIA professionals work with your agency's Open Government Team?

Amtrak is not a federal agency and therefore does not have an Open Government Team, however congressionally mandated reports are posted on Amtrak's website.

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA Administration?

The FOIA Office was assigned staff on a temporary basis to assist with processing requests.

5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

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

Additional meetings are held as needed to discuss corporate wide FOIA training, Annual Reports, as well as other FOIA-related issues.

Part III. Steps taken to Increase Proactive Disclosure

Describe the steps your agency has taken to increase the amount of material that is available on your agency's website, including providing examples.

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

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

Listed below is some of the more recent information which has been posted on Amtrak's website:

1. Grants and Legislative Requests
 - Fiscal Year 2013 Grant and Legislative Request – February 1, 2012
 - Fiscal Year 2012 Grant and Legislative Request – February 7, 2012
2. Annual Reports and Consolidated Financial Statements
 - Annual Report 2011
3. PRIIA Submissions and Reports
 - FY11 Performance Improvement Plan – September 2011
 - Section 222 Report to Congress
4. Comprehensive Business
 - Fiscal Year 2012-2015 Five-year Financial Plan FY11

In addition, Amtrak has its own FOIA website, which posts the latest FOIA Annual and Chief FOIA Officer Reports, Reading Room materials,

FOIA regulations, FOIA handbook as well as other FOIA-related documents.

Has your agency added new material to your agency website since last year?

Yes

What types of records have been posted?

Records regarding finance, legislation, and Amtrak performance (See information listed in Part III.)

Describe the system your agency uses to routinely identify records that are appropriate for posting.

Amtrak has a Content Management System Interface which is used for posting information on its website. Once documents, reports have been approved by senior personnel, information is submitted that they feel should be shared with the public on the website, such as financial reports, media news, procurement information (bid solicitations) and of course Amtrak's travel information. Amtrak provides a public service and feels it should provide the public an insight into its operations.

Beyond posting material, is your agency taking steps to make the 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 capability, providing explanatory material, etc.?

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 see if there are any bid solicitations for that area.

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

If nonexempt records are requested repeatedly, Amtrak will post those records on its website.

Part IV. [Steps taken to Greater Utilize Technology](#)

Electronic receipt of FOIA requests:

1. *Can FOIA requests be made electronically to your agency?*

Yes, Amtrak receives requests via e-mail as well as through regular mail.

2. *If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?*

Amtrak processes requests on a centralized basis.

Online tracking of FOIA requests:

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

No, a requester can not track the status of his/her request electronically.

4. *If not, is your agency taking steps to establish this capability?*

Not at this time.

Use of technology to facilitate processing of requests?

5. *Beyond using technology to redact documents, is your agency taking 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?*

Not at this time.

6. *If so, describe the technological improvements being made.*

See answer to item 5.

Part V . [Steps taken to Improve Timeliness in Responding to Requests and Reduce Backlogs](#)

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

Yes.

- b. *If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?*

Yes, it was 8 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?*

See answer to item# a.

- a. *If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?*

Yes. FY11 Backlog of Requests - 15
FY10 Backlog of Requests - 37

- b. *If you agency had a backlog of appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal year 2010?*

No. FY11 Backlog of Appeals – 2
FY10 Backlog of Appeals - 2

- c. *In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?*

No.

- d. *In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?*

No.

Request Backlog:

Not applicable – Amtrak had a reduction in backlog.

Administrative Appeal:

Was the lack of reduction in the backlog of administrative appeals a result of an increase in the number of incoming appeals?

No.

Was the lack of reduction in the appeal backlog caused by a loss of staff?

No.

What other causes, if any, contributed to the lack of a decrease in the appeal backlog.

There were no major causes for the lack of a decrease in the appeal backlog. However, during FY12, one appeal (2/20/2009) was closed, which will be reported in the next FOIA Annual Report.

1. *Does your agency routinely set goals and monitor the progress of your FOIA caseload.*

Yes the FOIA caseload is discussed during the quarterly FOIA meetings.

2. *Has your agency increased its FOIA staffing?*

Not at this time.

3. *Has your agency made IT improvements to increase timeliness?*

Not at this time.

4. *If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?*

Not at this time.

1. *Did your agency invoke a statutory exclusion during Fiscal Year 2011?*

No.

Success Story: Amtrak closed one of its oldest request, which was 5 years old (2006). The request was quite complex and broad in scope, which resulted in a large amount of records for review. The review process not only involved the FOIA Office but other Amtrak employees and its legal counsel. Responsive records contained information regarding Amtrak's finances, policies, legislation, strategic plans and other business related information. During the review process decisions were often made, when possible, in adherence to President Obama and Attorney General Holder's memos on transparency and openness, which resulted in a large amount of records being released through discretionary disclosure. By disclosing these records, the requester was able to gain a better insight into Amtrak's functions and operations as well as its commitment to openness and transparency.

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