

NATIONAL RAILROAD PASSENGER CORPORATION

Freedom of Information Act Annual Report

Fiscal Year 2006



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NATIONAL RAILROAD PASSENGER CORPORATION

FREEDOM OF INFORMATION ACT ANNUAL REPORT

FISCAL YEAR 2006

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>

The report may also be obtained by e-mail at:

foiarequests@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 to 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

A FOIA request may also be submitted via e-mail to:

foiarequests@amtrak.com

B. Response Time Ranges

Amtrak makes every effort to answer FOIA requests within the time frame 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 sought in the request.

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 that do not include a statement that the requester is willing to pay applicable processing fees.

Amtrak's response time for FY2006 requests has been reported in both "calendar days" and "business days" for comparison with data reported in prior years. For information regarding 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; records containing information that would pose a security risk; or records concerning Amtrak's decision-making process. For these reasons, Amtrak may be unable to disclose certain records or parts of records. For a description of exemptions that may be asserted pursuant to the FOIA, refer to "E" in Section XII of this report.

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 from the date of “perfection” to the date of completion.
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 this calculation.
4. **Complex request** -- A FOIA request placed in a slower track for processing based upon the volume and/or complexity of the records sought in the request.
5. **Denial** -- A decision not to release records or any part of a record 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. **Executive Order 13,392** – An Executive Order entitled *Improving Agency Disclosure of Information* issued by President George W. Bush on December 14, 2005. The Order established a “citizen-centered” and “results-oriented” approach to the administration of the FOIA. It required each entity subject to the FOIA to conduct a review of its FOIA operations, develop a plan to improve the administration of the Act, and provide a description of progress made in meeting milestones and goals established in the improvement plan in its Annual FOIA Report.
7. **Executive Order Implementation Plan** – A plan developed to improve the administration of the FOIA. The Implementation Plan includes a description of FOIA operations, areas selected for review, the results of the analysis, and areas selected for improvement along with goals and milestones for accomplishing the improvements.
8. **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.
9. **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).
10. **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.
11. **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.
12. **Grant** -- A decision to disclose all records in full in response to a FOIA request.

13. **Initial request** -- A request for access to records under the FOIA.
14. **Median number** -- The middle number.
15. **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 which there is an exceptional need or urgency for records are placed in still another track. Requests in each track are processed on a first-in/first-out basis. A requester with an urgent need may request expedited processing.
16. **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 entireties and to withhold other records in full or in part.
17. **Pending request** -- A perfected or unperfected FOIA request that is pending at the end of the reporting period.
18. **“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 regarding the payment of applicable fees.
19. **Processed request or appeal** -- A request or appeal in which final action has been taken in all respects.
20. **Segregability review** -- The act of reviewing a document and removing portions that are exempt from disclosure under the FOIA.
21. **Simple request** -- A FOIA request placed in the fastest (nonexpedited) track for processing based upon the volume and/or complexity of the records sought in the request.
22. **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. **Forwarding of a request** -- The discretionary transmittal of a request to a federal agency.
4. **No records** -- A reasonable search failed to identify records responsive to the request.

5. **Not a proper FOIA request for some other reason** -- The requester failed to comply with legitimate procedural requirements that are not fee-related.
6. **Not an Amtrak record** -- The information requested was not a record within the meaning of FOIA.
7. **Other reasons for nondisclosure** -- Any other reason that a requester does not comply with published rules.
8. **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.
9. **Referrals** -- The request was referred to a federal agency for action.
10. **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 contracts.	None

V. Initial FOIA Access Requests

A. Numbers of Initial Requests:

1.	Number of requests pending at the end of Fiscal Year 2005	14
2.	Number of requests received during Fiscal Year 2006	214
3.	Number of requests processed during Fiscal Year 2006	217
4.	Number of requests pending at the end of Fiscal Year 2006	11

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

B. Disposition of Initial Requests:

1.	Number of total grants	46
2.	Number of partial grants	33
3.	Number of denials	5

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

(1)	Exemption 1	0
(2)	Exemption 2	5
(3)	Exemption 3	4
(4)	Exemption 4	9
(5)	Exemption 5	15
(6)	Exemption 6	22
(7)	Exemption 7 (A)	0

(8)	Exemption 7(B)	0
(9)	Exemption 7(C)	2
(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:	133
(a)	No records		14
(b)	Referrals to other entities subject to the FOIA		0
(c)	Request withdrawn		7
(d)	Fee-related reason		45
(e)	Records not reasonably described		8
(f)	Not a proper FOIA request for some other reason		25
(g)	Not Amtrak records		3
(h)	Duplicate request		31
(i)	Other reasons for nondisclosure		0

VI. Appeals of Initial Denials of FOIA Requests

A. Number of Appeals:

1.	Number of appeals received during FY2006	2
2.	Number of appeals processed during FY2006	2

B. Disposition of Appeals:

1.	Number of completely upheld	1
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	1
(3)	Exemption 3	0
(4)	Exemption 4	1
(5)	Exemption 5	0
(6)	Exemption 6	0
(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:	1
(a)	No records		1
(b)	Referrals to other entities subject to the FOIA		0
(c)	Appeal withdrawn		0
(d)	Fee-related reason		0
(e)	Records not reasonably described		0
(f)	Not a proper FOIA request for some other reason		0
(g)	Not an Amtrak record		0
(h)	Duplicate request		0
(i)	Other reasons for nondisclosure		0

VII. Compliance with Time Limits and Status of Pending Requests

A. Median Processing Time for Requests Completed during FY2006

1. Simple Requests Processed during FY2006		
(a)	Number of requests processed	36
(b)	Median number of days to process	1 calendar day 1 business day

2. Complex Requests Processed during FY2006		
(a)	Number of requests processed	178
(b)	Median number of days to process	13 calendar days 9 business days

3. Expedited Requests Processed during FY2006		
(a)	Number of requests processed	3
(b)	Median number of days to process	19 calendar days 13 business days

B. Status of Pending Requests:

1.	Number of requests pending at the end of FY2006	11
2.	Median number of days that requests were pending	43 calendar days 29 business days

VIII. Comparative Data

A. Below is a table showing the number of requests received by Amtrak during fiscal years 1997 through 2006.

FY97	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06
72	101	172	193	202	197	178	223	206	214

*January-October

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

FY97	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06
77	108	173	194	215	167	203	230	208	217

*January-October

C. During FY2006, Amtrak received seven requests for expedited processing. Four requests were granted, two requests did not meet the criteria stipulated in

Amtrak's FOIA regulations and were denied, and one request was not applicable because the request was made pursuant to a state Open Records Act.

D. Actions undertaken by Amtrak during FY2006 to improving the timeliness of FOIA responses and to make records available to the public:

Refer to information in Section XII of this report.

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)

1.	FOIA processing (including appeals)	\$106,411
2.	Litigation-related activities	\$ 75,594
3.	Total costs	\$182,005*

*Includes estimated salaries and benefits, reproduction costs, and outside counsel fees. Amtrak does not track all costs associated with processing FOIA requests and appeals.

X. Fees

1.	Fees collected for processing requests	\$4,024
2.	Percentage of total costs	2.2%

XI. FOIA Regulations (including Fee Schedule)

No changes were made in Amtrak's FOIA regulations (49 CFR 701) during FY2006. These regulations are attached to this report. These regulations can also be accessed through the Internet at:

http://www.amtrak.com/pdf/FOIA/FOIA_Regulations.pdf

XII. REPORT ON EXECUTIVE ORDER 13,392 IMPLEMENTATION

This section of the Annual FOIA Report provides a description of progress made regarding the implementation of milestones and goals established in Amtrak's Implementation Plan that was developed as result of Executive Order 13,392. It covers implementation of the Plan through February 1, 2007. The remainder of Amtrak's Annual FOIA Report provides statistical data for Fiscal Year 2006.

A. Description of Supplementation/Modification of the Improvement Plan

Not Applicable.

B. Report on Implementation of Amtrak's Plan, Including Performance in Meeting Milestones with Respect to Each Improvement Area

Amtrak has met or exceeded all goals and milestones set forth in its June 14, 2006 Executive Order Implementation Plan that were slated to be completed for the period ending February 1, 2007.

As outlined in the Implementation Plan, Amtrak undertook steps to enhance the administration of its FOIA program in the following areas: customer relations/communications, training, FOIA processing and backlog reduction, information technology, reading room materials/ FOIA web-site, automated tracking of requests, and updating of materials provided to FOIA requesters.

FOIA Processing and Backlog Reduction

One of the first steps undertaken in the Plan was to inform key field personnel of requirements of the Executive Order in order to gain their cooperation in providing responsive records in the shortest time possible. In addition, the target dates specified in search memos were shortened. Personnel in the field offices responsible for locating responsive records have proven to be very supportive of the Executive Order. In addition, monthly meetings of the FOIA staff were initiated for the purpose of identifying possible solutions for reducing processing time. A number of recommendations have been implemented as the result of these meetings.

Amtrak exceeded its goal of reducing the backlog of pending FOIA requests by ten percent at the end of FY06. This brought the number of pending requests at year-end to eleven. Emphasis was placed on processing the oldest requests. Amtrak has a goal of reducing the backlog by an additional ten percent by the end of FY07, which will be quite a challenge in light of the fact that requests in December were running 70 percent over the same period in FY06.

Training

As outlined in the Plan, in-house training of the FOIA staff has been carried out on an ongoing basis. Each FOIA request processed by the Assistant FOIA Officer, who is relatively new to FOIA administration, is critiqued. During the reporting period, the Assistant FOIA Officer attended two workshops conducted by the Department of Justice (DOJ), and both staff members attended the FOIA Guide Seminar. In addition, the FOIA staff meets on a monthly basis to discuss FOIA issues and the FOIA process.

Customer Relations/Communications

With regard to customer relations/communications, Amtrak has taken a number of steps to enhance customer relations. These steps included establishing a FOIA e-mail account and installing a dedicated phone line for the FOIA Customer Service Center. All responses include an invitation to contact the staff with questions regarding FOIA processing and the phone number of the staff member responsible for processing the request. Amtrak also developed a card containing contact information for the FOIA Service Center, FOIA Public Liaison, and FOIA staff, which is included in acknowledgement letters and/or final responses. Amtrak has initiated the process of sending acknowledgement letters within ten days of receipt of a request and providing requesters with a FOIA request identification number for ease of reference. Amtrak has also developed a form for documenting calls received by the FOIA Service Center as well as procedures for reviewing calls. No calls have been received by the Service Center to date.

Information Technology and Automated Tracking of Requests

Amtrak has met its milestones with regard to testing of the new version of FOIA request tracking software as well as implementing a process for scanning documents and electronic redaction of exempt material. Full implementation of the new version of the tracking software is on schedule for the end of March.

Reading Room Materials and FOIA Website

With regard to Amtrak's FOIA website, a review was undertaken in which it was discovered that a number of documents posted were not fully visible to the reader, were difficult to read, and/or were no longer posted as result of changes to the Corporation's website. Each of the documents was reformatted and reposted to the website. Moreover, steps were taken to ensure that all documents posted to the website were ADA compliant. Amtrak has also updated its process for locating and posting subsection (a)(2) reading room documents, which includes checking the website on a more frequent basis.

Amtrak is on target with regard to updating information regarding its major information systems. Amtrak Technology (AT) recently completed an assessment of the corporation's information systems. The FOIA Office and AT are in the process of updating the list of major information systems and will post the list on Amtrak's website when completed. The projected completion date of this project is April 2007. In addition, Amtrak has taken steps to provide FOIA requesters with ready access to reading room materials by setting up a computer terminal for visitors to the "traditional reading room."

Updating of Annual FOIA Report, Handbook and Regulations

Amtrak revised its Annual Report to include the data and definitions required by Executive Order 13,392 and is on schedule with regard to revising the FOIA Handbook and Amtrak's FOIA regulations in March and May, respectively.

C. Identification and Discussion of Any Deficiency in Meeting Plan Milestones

Not Applicable.

D. Additional Narrative Statements regarding Other Executive-Order Related Activities (Optional)

E. Concise Description of FOIA Exemptions

There are nine exemptions to the FOIA which authorize entities subject to the FOIA to withhold information. A brief description of these exemptions appears below:

Exemption 1: Classified national defense and foreign relations information.

Exemption 2: Internal agency rules and practices.

Exemption 3: Information that is prohibited from disclosure by another federal law.

Exemption 4: Trade secrets and other confidential business information.

Exemption 5: Inter-agency or intra-agency communications that are protected by legal privileges.

Exemption 6: Information involving matters of personal privacy.

Exemption 7: Records or information compiled for law enforcement purposes, to the extent the production of those records:

(A) could reasonably be expected to interfere with enforcement proceedings,

(B) would deprive a person of a right to a fair trial or an impartial adjudication,

(C) could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(D) could reasonably be expected to disclose the identity of a confidential source,

(E) would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions, or

(F) could reasonably be expected to endanger the life or physical safety of any individual.

Exemption 8: Information relating to the supervision of financial institutions,

Exemption 9: Geological information.

F. Additional Statistics

1. Time range of requests pending, by date of request (or where applicable, by date of referral from another agency).

March 1, 2006 through January 26, 2007

2. Time range of consultations pending with other agencies as of January 31, 2007:

Not Applicable.

G. Attachment: Amtrak's Improvement Plan

<http://www.amtrak.com/pdf/FOIA/FOIA-Plan-EO13392.pdf>