

Chief FOIA Officer Report

Diane L. Herndon

March 2018



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

Diane L. Herndon – Chief FOIA Officer

MARCH 2018

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.*

U.S. Department of Justice - FOIA for Attorneys and Access Professionals
(July 18-19, 2017)

- Accuracy and Accountability in FOIA Processing - Workshop
- Administration Appeals and Dispute Resolution – Discussion of FOIA’s administrative process and the availability of mediation services
- FOIA Requests Start to Finish - Workshop
- Fees and Fee Waivers - Overview
- FOIA/Privacy Act Interface
- Achieving Transparency Through Proactive Disclosures - Overview
- FOIA Exemptions Overview

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

No.

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.

All Amtrak employees are encouraged to take FOIA training provided under the U.S. Department of Justice.

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.

When needed, requesters are provided with updates on their requests and provided with explanations as to why a response date may have to be extended.

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

1. *For Fiscal 2017 what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A of your agency's Fiscal Year 2017 Annual FOIA Report.*

Amtrak took 2.4 days 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.*

N/A see item #1.

3. *During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.*

Amtrak did not conduct a self-assessment of its FOIA program.

4. *The FOIA Improvement Act of 2016 requires additional notification about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2017 (please provide a total number or an estimate of the number).*

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

5. *Optional Survey Question: If possible, please provide an estimate of the average number of pages that your agency processes for each request. You may provide estimate for each track.*

Amtrak does not track the number of pages it processes for each request.

6. *Is there 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..*

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 other legal guidance for case law in responding to requests. In addition, the Lead FOIA Specialist 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.

III. Steps Taken to Increase Proactive Disclosures

- 1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material. Describe your agency's process or system for identifying "frequently requested" records required to be posted online.*

Amtrak testimony before Congress – February 2017 – July 2017
www.amtrak.com/about-amtrak/government-affairs-staff/congressional-testimony.html

Infrastructure Renewal at New York Penn Station
<https://www.amtrak.com/about-amtrak/nyprenewal.html>

Chicago Gateway Project
<https://www.amtrak.com/about-amtrak/chicagogateway.html>

The Reports listed below can be located at <https://www.amtrak.com/about-amtrak/reports-documents.html>

Grants and Legislative Requests
Fiscal Year 2018 Grant and Legislative Request
Fiscal Year 2017 Grant and Legislative Request

Strategic and Financial Plans
FY17-21 Five Year Service Line Plans

Host Railroad Reports
May 2017 –November 2017

Monthly Performance Reports -
November 2017
October 2017

Year End Reports
September 2017

Amtrak's FOIA Office confers with the Chief FOIA Officer prior to posting frequently requested records (i.e., Procurement Manual). In addition, Amtrak Departments also posts frequently requested records, such as Monthly Performance Reports, Year End Reports, etc.

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

Amtrak has a Facebook page, which users can "like" and view certain projects currently taking place with the corporation, such as the highly publicized New York Penn Station track renewal project that took place this summer.

Amtrak also has a twitter account, which provides interaction with the public.

Amtrak's Media web page also provides up to date news and developments regarding Amtrak, such as redevelopment (Baltimore Penn Station), appointments of new Executive Staff (appointment of new Amtrak CEO Richard Anderson), up to date revenue information, infrastructure (NY Penn Station) and an archive of Amtrak press releases.

3. *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, see item 2.

4. *If yes, provide examples of such improvements.*

See item 2.

5. *If there 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 proactive disclosures?*

None taken at this time.

IV. Steps Taken to Greater Utilize Technology

1. *Has your agency identified any best practices to leverage 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? If yes, please describe the best practices, the types of technology used and the impact on your agency's processing.*

Amtrak uses software that can de-duplicate documents. This technology has helped in cutting down the number of records that have to be processed.

2. *Did your agency successfully post all four quarterly reports for Fiscal Year 2017?*

Yes.

3. *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 2018.*

N/A see item #2.

4. *The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2016 Annual FOIA Report and, if available, for your agency's Fiscal Year 2017 Annual FOIA Report.*

<https://www.amtrak.com/about-amtrak/foia.html>

5. *If there are any other steps your agency has taken to improve use of technology in FOIA, please describe them here.*

The FOIA Office provided training via SKYPE to Amtrak employees located in Philadelphia.

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 2017, 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 2017 that were placed in your simple track?*

17.24%

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

5. *If your agency had a backlog of requests at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?*

Yes. FY17 Backlog of Requests - 68
FY16 Backlog of Requests - 76

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

N/A see item #5.

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 2017.*

30.36%

Backlogged Appeals

8. *If you had a request backlog of appeals at the close of Fiscal Year 2017, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2016?*

Yes. FY17 Backlog of appeals: 4
FY16 Backlog of appeals: 10

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

N/A see item #8

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 2017.*

Backlog: 4 appeals
Received in FY17: 5 appeals
80%

C. Backlog Reductions Plans

11. *In the 2017 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2016 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2017?*

N/A Amtrak did not have a backlog of over 1000 requests. FY17 backlog was 68 requests.

12. *If your agency had a backlog of more than 1,000 requests in Fiscal Year 2017, what is your agency's plan to reduce this backlog during Fiscal Year 2018?*

N/A see item #11.

D. Status of Ten Oldest Requests, Appeals and Consultations

Ten Oldest Requests:

13. *In Fiscal Year 2017, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2016 Annual Report?*

Yes.

14. *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 2016 Annual FOIA Report?*

N/A see item #13.

15. *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?*

Nine (9) were withdrawn. One interim response was provided.

Ten Oldest Appeals:

16. *In Fiscal Year 2017, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2016 Annual FOIA Report?*

No.

17. *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 2016 Annual FOIA Report. .*

6 appeals.

Ten Oldest Consultations:

18. *In Fiscal Year 2017, 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 FY17.

19. *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 2016 Annual FOIA Report. If you had less than ten total consultations to close, please indicate that.*

N/A see item #18.

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

20. *Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2017.*

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

21. *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 #18.

22. *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. For extremely complex requests, we will continue to contact requesters about narrowing the scope of their request. Requesters will also be directed to websites, when possible, for obtaining recently posted information.

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

Amtrak did not have any consultations during FY17.

F. **Success Stories**

The FOIA Office updated its FOIA website:

- FOIA Handbook - Revised September 2017 – The Handbook incorporates the new FOIA 2016 Amendments
- Major Information Systems - Revised September 2017 – The FOIA Office worked with the IT Department to provide a more up to date list and description of Amtrak's information systems.
- Amtrak's new FOIA Regulations, which incorporate the 2016 FOIA Amendments, are also posted on the website

Amtrak FOIA training via SKYPE:

- Amtrak personnel in Philadelphia were able to participate in FOIA training via SKYPE. Training was hosted at Washington, DC headquarters.