

Freedom of Information Act Annual Report

Fiscal Year 2018



NATIONAL RAILROAD PASSENGER CORPORATION
FREEDOM OF INFORMATION ACT ANNUAL REPORT
FISCAL YEAR 2018

I. BASIC INFORMATION REGARDING 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, please contact:

Ms. Rebecca Conner
Manager, Records and Information Management
National Railroad Passenger Corporation
Freedom of Information Act Office
1 Massachusetts Avenue, NW
Washington, DC 20001

Phone: 202-906-3215
foiarequests@amtrak.com

Amtrak's FOIA website can be accessed by clicking on the link below:

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

II. MAKING A FOIA REQUEST

Specific information on how to submit a FOIA request to Amtrak can be obtained by writing to:

Ms. Rebecca Conner
Manager, Records and Information Management
National Railroad Passenger Corporation
Freedom of Information Act Office
1 Massachusetts Avenue, NW
Washington, DC 20001

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

foiarequests@amtrak.com

RESPONSE TIME:

Amtrak makes every effort to answer FOIA requests within the statutory time frame. 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.

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.

Described below are some of the categories of Amtrak records, in which exemptions may apply:

1. Proprietary and commercially competitive Amtrak revenue information
2. Bid proposals not incorporated in contracts, as a result of Amtrak bid solicitations
3. Amtrak passenger personal identifying information
4. Preliminary opinions of Amtrak employees during law enforcement investigations

For a description of exemptions that may be asserted pursuant to the FOIA, please refer to Section III., number 3, Descriptions of the nine FOIA exemptions.

III. ACRONYMS, DEFINITIONS, AND EXEMPTIONS

1. Amtrak-specific acronyms or terms:

- a. **National Railroad Passenger Corporation** – NRPC, commonly known as Amtrak. Amtrak is a private corporation and not a federal agency. It is, however, subject to the FOIA by statute. See 49 U.S.C. § 24301.

2. Basic terms used in the report:

- a. **Administrative Appeal** – a request to a federal agency or other entity subject to the FOIA asking that it review at a higher administrative level a FOIA determination made at the initial request level.
- b. **Average Number** – the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, the average number of 3, 7, and 14, is 8.
- c. **Backlog** – the number of requests or administrative appeals that are pending at the end of the fiscal year that are beyond the statutory time period for a response.
- d. **Consultation** – the procedure whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document. Once the agency in receipt of the consultation finishes its review of the record, it responds back to the agency that forwarded it. That agency, in turn, will then respond to the FOIA requester.
- e. **Exemption 3 Statute** – a federal statute that exempts information from disclosure and which an agency relies on to withhold information under subsection (b)(3) of the FOIA.
- f. **FOIA Request** – a FOIA request is generally a request to a federal agency or other entity subject to the FOIA for access to agency or records concerning another person (i.e., a “third-party” request), or concerning an organization, or a particular topic of interest. FOIA requests also include requests made by requesters seeking records concerning themselves (i.e., “first-party” requests). All requests which require the agency to utilize the FOIA in responding to the requester are included in this Report.

Additionally, a FOIA request includes records referred to an agency or other entity subject to the FOIA for processing and direct response to the requester. It does not, however, include records for which the agency has received a consultation from another agency. (Consultations are reported separately in Section XII of this Report.)

- g. **Full Grant** – an agency decision to disclose all records in full in response to a FOIA request.

- h. **Full Denial** – an agency decision not to release any records in response to a FOIA request because the records are exempt in their entirety under one or more of the FOIA exemptions, or because of a procedural reason, such as when no records could be located.
- i. **Median Number** – the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
- j. **Multi-Track Processing** – a system in which simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests granted expedited processing are placed in yet another track. Requests in each track are processed on a first in/first out basis.
 - i. **Expedited Processing** – an agency or entity will process a FOIA request on an expedited basis when a requester satisfies the requirements for expedited processing as set forth in the statute and in agency regulations.
 - ii. **Simple Request** – a FOIA request that an agency or entity using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.
 - iii. **Complex Request** – a FOIA request that an agency or entity using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.
- k. **Partial Grant/Partial Denial** – in response to a FOIA request, an agency decision to disclose portions of the records and to withhold other portions that are exempt under the FOIA, or to otherwise deny a portion of the request for a procedural reason.
- l. **Pending Request or Pending Administrative Appeal** – a request or administrative appeal for which an agency or entity has not taken final action in all respects.
- m. **Perfect Request** – a request for records which reasonably describes such records and is made in accordance with published rules stating the time, place, fees (if any) and procedures to be followed.
- n. **Processed Request or Processed Administrative Appeal** – a request or administrative appeal for which an agency or entity has taken final action in all respects.
- o. **Range in Number of Days** – the lowest and highest number of days required to process requests or administrative appeals.

- p. **Time Limits** – the time period in the statute for an agency or entity to respond to a FOIA request (ordinarily twenty working days from receipt of a perfected FOIA request).

3. Descriptions of the nine FOIA exemptions:

- a. **Exemption 1:** classified national defense and foreign relations information
- b. **Exemption 2:** internal agency rules and practices
- c. **Exemption 3:** information that is prohibited from disclosure by another federal law
- d. **Exemption 4:** trade secrets and other confidential business information
- e. **Exemption 5:** inter-agency or intra-agency communications that are protected by legal privileges
- f. **Exemption 6:** information involving matters of personal privacy
- g. **Exemption 7:** records or information compiled for law enforcement purposes, to the extent that 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
- h. **Exemption 8:** information relating to the supervision of financial institutions
- i. **Exemption 9:** geological information on wells

IV. EXEMPTION 3 STATUTES

Statute	Type of Information Withheld	Case Citation	Agency / Component	Number of Times Relied upon by Agency / Component	Total Number of Times Relied upon by Agency Overall
41 U.S.C. § 4702(b) (formerly at 41 U.S.C. § 253b(m)(1))	Contractor proposals that are in the possession or control of an executive agency and that have not been set forth or incorporated by reference into contracts.	Sinkfield v. HUD, No. 10-885, 2012 U.S. Dist. LEXIS 35233, at *13-15 (S.D. Ohio Mar. 15, 2012); Margolin v. NASA, No. 09-CV-00421, 2011 WL 1303221, at *6 (D. Nev. Mar. 31, 2011); Hornbostel v. U.S. Dep't of the Interior, 305 F. Supp. 2d 21, 30 (D.D.C. 2003), summary affirmance granted, No. 03-5257, 2004 WL 1900562 (D.C. Cir. Aug. 25, 2004).	NRPC	3	3

V.A. FOIA REQUESTS – RECEIVED, PROCESSED AND PENDING FOIA REQUESTS

Agency / Component	Number of Requests Pending as of Start of Fiscal Year	Number of Requests Received in Fiscal Year	Number of Requests Processed in Fiscal Year	Number of Requests Pending as of End of Fiscal Year
NRPC	141	206	215	132
				0
AGENCY OVERALL	141	206	215	132

V.B.(1). DISPOSITION OF FOIA REQUESTS -- ALL PROCESSED REQUESTS

Agency / Component	Number of Full Grants	Number of Partial Grants / Partial Denials	Number of Full Denials Based on Exemptions	Number of Full Denials Based on Reasons Other than Exemptions									TOTAL
				No Records	All Records Referred to Another Component or Agency	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper FOIA Request for Other Reason	Not Agency Record	Duplicate Request	Other *Explain in Chart Below	
NRPC	40	44	8	29	2	64	17	0	2	5	4	0	215
													0
AGENCY OVERALL	40	44	8	29	2	64	17	0	2	5	4	0	215

**V.B.(2). DISPOSITION OF FOIA REQUESTS -- "OTHER" REASONS FOR "FULL DENIALS
BASED ON REASONS OTHER THAN EXEMPTIONS"**

Agency / Component	Description of "Other" Reasons for Denials from Chart B(1)	Number of Times "Other" Reason Was Relied Upon	TOTAL
NRPC	N/A	0	0
AGENCY OVERALL			0

V.B.(3). DISPOSITION OF FOIA REQUESTS -- NUMBER OF TIMES EXEMPTIONS APPLIED

Agency / Component	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
NRPC	0	3	3	10	15	28	2	0	17	0	0	3	0	0
AGENCY OVERALL	0	3	3	10	15	28	2	0	17	0	0	3	0	0

VI.A. ADMINISTRATIVE APPEALS OF INITIAL DETERMINATIONS OF FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING ADMINISTRATIVE APPEALS

Agency / Component	Number of Appeals Pending as of Start of Fiscal Year	Number of Appeals Received in Fiscal Year	Number of Appeals Processed in Fiscal Year	Number of Appeals Pending as of End of Fiscal Year
NRPC	6	2	5	3
				0
AGENCY OVERALL	6	2	5	3

VI.B. DISPOSITION OF ADMINISTRATIVE APPEALS -- ALL PROCESSED APPEALS

Agency / Component	Number Affirmed on Appeal	Number Partially Affirmed & Partially Reversed/Remanded on Appeal	Number Completely Reversed/Remanded on Appeal	Number of Appeals Closed for Other Reasons	TOTAL
NRPC	0	0	2	3	5
					0
AGENCY OVERALL	0	0	2	3	5

VI.C.(1). REASONS FOR DENIAL ON APPEAL -- NUMBER OF TIMES EXEMPTIONS APPLIED

Agency / Component	Ex. 1	Ex. 2	Ex. 3	Ex. 4	Ex. 5	Ex. 6	Ex. 7(A)	Ex. 7(B)	Ex. 7(C)	Ex. 7(D)	Ex. 7(E)	Ex. 7(F)	Ex. 8	Ex. 9
NRPC	0	0	0	0	0	0	0	0	0	0	0	0	0	0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	0	0

VI.C.(2). REASONS FOR DENIAL ON APPEAL -- REASONS OTHER THAN EXEMPTIONS

Agency / Component	No Records	Records Referred at Initial Request Level	Request Withdrawn	Fee-Related Reason	Records not Reasonably Described	Improper Request for Other Reasons	Not Agency Record	Duplicate Request or Appeal	Request in Litigation	Appeal Based Solely on Denial of Request for Expedited Processing	Other *Explain in chart below
NRPC	1	0	2	0	0	0	0	0	0	0	0
AGENCY OVERALL	1	0	2	0	0	0	0	0	0	0	0

VI.C.(3). REASONS FOR DENIAL ON APPEAL -- "OTHER" REASONS

Agency / Component	Description of "Other" Reasons for Denial on Appeal from Chart C(2)	Number of Times "Other" Reason Was Relied Upon	TOTAL
NRPC	N/A	0	0
AGENCY OVERALL			0

VI.C.(4). RESPONSE TIME FOR ADMINISTRATIVE APPEALS

Agency / Component	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	593.00	524.20	32.00	1,016.00

VI.C.(5). TEN OLDEST PENDING ADMINISTRATIVE APPEALS

Agency / Component		10th Oldest Appeal	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Appeal
	Date of Appeal										
	Number of Days Pending										
AGENCY OVERALL	Date of Appeal	N/A	N/A	N/A	N/A	N/A	N/A	N/A	2018-04-19	2017-08-02	2017-03-28
	Number of Days Pending	0	0	0	0	0	0	0	113	293	383

VII.A. FOIA REQUESTS -- RESPONSE TIME FOR ALL PROCESSED PERFECTED REQUESTS

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	8	53.07	1	264	36	150.37	1	1015	649	693.62	637	813

VII.B. PROCESSED REQUESTS -- RESPONSE TIME FOR PERFECTED REQUESTS IN WHICH INFORMATION WAS GRANTED

Agency / Component	SIMPLE				COMPLEX				EXPEDITED PROCESSING			
	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days	Median Number of Days	Average Number of Days	Lowest Number of Days	Highest Number of Days
AGENCY OVERALL	5	22.33	1	141	47	109.39	1	1015	N/A	N/A	N/A	N/A

VII.C. PROCESSED SIMPLE REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
NRPC	7	2	0	0	0	0	0	1	0	0	2	0	0	12
														0
AGENCY OVERALL	7	2	0	0	0	0	0	1	0	0	2	0	0	12

VII.C. PROCESSED COMPLEX REQUESTS -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
NRPC	81	18	15	8	7	4	4	5	4	4	11	3	29	193
														0
AGENCY OVERALL	81	18	15	8	7	4	4	5	4	4	11	3	29	193

VII.C. PROCESSED REQUESTS GRANTED EXPEDITED PROCESSING -- RESPONSE TIME IN DAY INCREMENTS

Agency / Component	<1-20 Days	21-40 Days	41-60 Days	61-80 Days	81-100 Days	101-120 Days	121-140 Days	141-160 Days	161-180 Days	181-200 Days	201-300 Days	301-400 Days	401+ Days	TOTAL
NRPC	0	0	0	0	0	0	0	0	0	0	0	0	8	8
														0
AGENCY OVERALL	0	0	0	0	0	0	0	0	0	0	0	0	8	8

VII.D. PENDING REQUESTS -- ALL PENDING PERFECTED REQUESTS

Agency / Component	SIMPLE			COMPLEX			EXPEDITED PROCESSING		
	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days	Number Pending	Median Number of Days	Average Number of Days
AGENCY OVERALL	9	659	595	117	172	219	2	467.5	467

VII.E. PENDING REQUESTS -- TEN OLDEST PENDING PERFECTED REQUESTS

Agency / Component		10th Oldest Request	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Request
	Date of Receipt										
	Number of Days Pending										
AGENCY OVERALL	Date of Receipt	2016-05-18	2016-04-07	2016-03-15	2016-03-07	2016-03-04	2016-03-03	2016-03-01	2016-02-29	2015-09-01	2015-08-24
	Number of Days Pending	595	624	641	647	648	649	651	652	773	779

VIII.A. REQUESTS FOR EXPEDITED PROCESSING

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate	Number Adjudicated Within Ten Calendar Days
AGENCY OVERALL	0	0	N/A	N/A	0

VIII.B. REQUESTS FOR FEE WAIVER

Agency / Component	Number Granted	Number Denied	Median Number of Days to Adjudicate	Average Number of Days to Adjudicate
AGENCY OVERALL	1	0	4	4

IX. FOIA PERSONNEL AND COSTS

Agency / Component	PERSONNEL			COSTS		
	Number of "Full-Time FOIA Employees"	Number of "Equivalent Full-Time FOIA Employees"	Total Number of "Full-Time FOIA Staff"	Processing Costs	Litigation-Related Costs	Total Costs
NRPC	1	1	2	\$150,000.00	\$0.00	\$150,000.00
			0			\$0.00
AGENCY OVERALL	1	1	2	\$150,000.00	\$0.00	\$150,000.00

X. FEES COLLECTED FOR PROCESSING REQUESTS

Agency / Component	Total Amount of Fees Collected	Percentage of Total Costs
NRPC	\$266.00	0.18%
AGENCY OVERALL	\$266.00	0.18%

XI.A. NUMBER OF TIMES SUBSECTION (C) USED

Agency / Component	Number of Times Subsection Used
NRPC	0
AGENCY OVERALL	0

XI.B. NUMBER OF SUBSECTION (A)(2) POSTINGS

Agency / Component	Number of Records Posted by the FOIA Office	Number of Records Posted by Program Offices
NRPC	0	281
AGENCY OVERALL	0	281

XII.A. BACKLOGS OF FOIA REQUESTS AND ADMINISTRATIVE APPEALS

Agency / Component	Number of Backlogged Requests as of End of Fiscal Year	Number of Backlogged Appeals as of End of Fiscal Year
NRPC	64	2
AGENCY OVERALL	64	2

XII.B. CONSULTATIONS ON FOIA REQUESTS -- RECEIVED, PROCESSED, AND PENDING CONSULTATIONS

Agency / Component	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>Start</u> of the Fiscal Year	Number of Consultations <u>Received</u> from Other Agencies During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Processed</u> by the Agency During the Fiscal Year	Number of Consultations Received from Other Agencies that were <u>Pending</u> at the Agency as of <u>End</u> of the Fiscal Year
NRPC	0	0	0	0
				0
AGENCY OVERALL	0	0	0	0

XII.C. CONSULTATIONS ON FOIA REQUESTS -- TEN OLDEST CONSULTATIONS RECEIVED FROM OTHER AGENCIES AND PENDING AT THE AGENCY

Agency / Component		10th Oldest Consultation	9th	8th	7th	6th	5th	4th	3rd	2nd	Oldest Consultation
	Date										
	Number of Days										
AGENCY OVERALL	Date	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	Number of Days	0	0	0	0	0	0	0	0	0	0

XII.D.(1). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- REQUESTS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF REQUESTS <u>RECEIVED</u>		NUMBER OF REQUESTS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
NRPC	224	206	203	215
AGENCY OVERALL	224	206	203	215

XII.D.(2). COMPARISON OF NUMBERS OF REQUESTS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED REQUESTS

Agency / Component	Number of Backlogged Requests as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Requests as of End of the Fiscal Year from Current Annual Report
NRPC	68	64
AGENCY OVERALL	68	64

XII.E.(1). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- APPEALS RECEIVED AND PROCESSED

Agency / Component	NUMBER OF APPEALS <u>RECEIVED</u>		NUMBER OF APPEALS <u>PROCESSED</u>	
	Number Received During Fiscal Year from Last Year's Annual Report	Number Received During Fiscal Year from Current Annual Report	Number Processed During Fiscal Year from Last Year's Annual Report	Number Processed During Fiscal Year from Current Annual Report
NRPC	5	2	10	5
AGENCY OVERALL	5	2	10	5

XII.E.(2). COMPARISON OF NUMBERS OF ADMINISTRATIVE APPEALS FROM PREVIOUS AND CURRENT ANNUAL REPORT -- BACKLOGGED APPEALS

Agency / Component	Number of Backlogged Appeals as of End of the Fiscal Year from Previous Annual Report	Number of Backlogged Appeals as of End of the Fiscal Year from Current Annual Report
NRPC	4	2
AGENCY OVERALL	4	2