

# **Chief FOIA Officer Report**

## **U.S. Department of Transportation (DOT)**

### **Chief FOIA Officer: Rosalind A. Knapp**

#### Introduction and Background

We are pleased to demonstrate in this third annual Chief FOIA Officer report that DOT has made strong progress in reducing backlogs, making proactive disclosures, applying the presumption of openness, ensuring that DOT has effective systems in place to respond to FOIA requests, and using technology to increase the timeliness of our disclosures.

The Department's Chief FOIA Officer provides high-level oversight and support to the Department's FOIA programs, and recommends adjustments to agency practices, personnel, and funding as may be necessary to improve FOIA administration, including through this annual Chief FOIA Officer Report submitted to the U.S. Department of Justice (DOJ).

The DOT-wide FOIA Office provides direction, leadership, guidance, and assistance to the FOIA offices throughout DOT. This office hosts a monthly DOT-wide meeting for FOIA offices within DOT and coordinates the overall FOIA annual report for the Department, as well as the Chief FOIA Officer report. The DOT FOIA Officer also serves as the FOIA Officer for OST.

The following DOT components receive and respond to FOIA requests:

- Federal Aviation Administration (FAA)
- Federal Highway Administration (FHWA)
- Federal Motor Carrier Safety Administration (FMCSA)
- Federal Railroad Administration (FRA)
- Federal Transit Administration (FTA)
- Office of the Inspector General (OIG)
- Office of the Secretary (OST)
- Maritime Administration (MARAD)
- National Highway Traffic Safety Administration (NHTSA)
- Pipeline and Hazardous Materials Safety Administration (PHMSA)
- Research and Innovative Technology Administration (RITA)
- Saint Lawrence Seaway Development Corporation (SLSDC)

Many components, including FMCSA, FRA, FTA, MARAD, NHTSA, OIG, OST, PHMSA, and SLSDC, have centralized programs, where all FOIA responsibilities and activities are conducted by a single FOIA office. These centralized FOIA offices obtain records from their various program offices, review the documents, and make determinations regarding release of the documents. RITA's FOIA responsibilities and activities are primarily shared between a Headquarters FOIA office and one field office (Volpe National Transportation Systems Center, Cambridge, MA), with the Headquarters FOIA office coordinating RITA's portion of the annual report.

For FAA and FHWA, FOIA responsibilities and activities are shared among numerous field and

Headquarters program offices. Each of the decentralized offices receives FOIA requests, searches for records, reviews records, and makes releasability determinations. Even in these decentralized programs, there is an office at Headquarters that oversees the implementation of the FOIA program and coordinates its component's portion of the Department's annual FOIA report.

The DOT has FOIA Public Liaisons throughout the Department, who serve as officials to whom FOIA requesters can raise concerns about service they have received from the FOIA Offices. FOIA Public Liaisons report to the Chief FOIA Officer on their FOIA liaison-related activities.

## **Section I: Steps Taken to Apply the Presumption of Openness**

The guiding principle underlying the President's FOIA Memorandum and the Attorney General's FOIA Guidelines is the presumption of openness.

Describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. To do so, you should answer the questions listed below and then include any additional information you would like to describe how your agency is working to apply the presumption of openness.

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

*Yes. The Department conducted both formal and informal FOIA training during the reporting period. Some examples include:*

*The Departmental FOIA Office held interactive monthly meetings with FOIA specialists and attorneys throughout the Department to provide guidance, address current FOIA issues, and share best practices.*

*The Department's Center for Alternative Dispute Resolution (ADR) hosted a 1-day training session, developed and presented by ADR experts from DOT and the U.S. Department of Health and Human Services (HHS), for DOT and HHS FOIA professionals. Entitled "Conflict Management Skills for FOIA Professionals," the training was well attended and well received.*

*FAA provided training to 258 field employees and contractors, as well as training for all FAA human resources offices. FAA also held its annual Headquarters FOIA training.*

*FHWA conducted webinars for its Headquarters and field offices on discretionary disclosures and fees.*

*The OIG FOIA Team held a Community of Practice (CoP) training entitled "FOIA and You," which was presented live and via webcast OIG-wide. Also, an OIG FOIA attorney prepared two FOIA related articles which appeared in editions of the DOT OIG newsletter.*

*Representatives from DOT's FOIA community hosted a FOIA/Privacy breakout session for the Office of the General Counsel's 2-day training for new DOT attorneys.*

*Many DOT components conducted on-the-job training for FOIA professionals, program office staff, managers, FOIA liaisons, and summer interns.*

2. Did your FOIA professionals attend any FOIA training, such as that provided by the Department of Justice?

*Yes. DOT employees attended a great deal of training during the reporting period, including: (1) training conducted by DOJ (e.g., FOIA for Attorneys and Access Professionals, Privacy Act for FOIA/Access Professionals, Advanced FOIA for Attorneys and Access Professionals, Administrative Forum, FOIA Litigation Seminar, and DOJ's training sessions on the Milner decision and FOIA fees); (2) symposiums, training, and luncheon seminars sponsored by the American Society of Access Professionals; (3) Conflict Management Skills for FOIA Professionals, jointly sponsored by DOT/HHS; (4) Basic Mediation training and Transformative Mediation training at the DOT Center for Alternative Dispute Resolution; (5) USDA Graduate School FOIA and Privacy Act Workshop; (6) various transparency-related sessions held by the Collaboration on Government Secrecy at American University's Washington College of Law; (7) the American Bar Association Administrative Law Conference's session on the Government in the Sunshine Act; (8) DOT's "new attorney" training described above; and (9) monthly Department-wide FOIA meetings in which updates are given and open discussions are held on issues related to FOIA compliance.*

In his 2009 FOIA Guidelines, the Attorney General strongly encouraged agencies to make discretionary releases of information even when the information might be technically exempt from disclosure under the FOIA. OIP encourages agencies to make such discretionary releases whenever there is no foreseeable harm from release.

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

*Yes.*

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

*Exemptions 2, 5, and 7(A). Due to the efforts shown below, the Department decreased its use of Exemptions 2, 5, and 7(A) in FY 2011.*

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

*Although all DOT components review records for discretionary releases, the*

*process varies by component. In many components, the FOIA Officer or FOIA attorney makes the final review for discretionary releases. Some component examples include (1) FAA's Headquarters FOIA team trained FOIA coordinators throughout FAA on the President's transparency policy; (2) FHWA provided webinar training on the subject and has additional resources available on its FOIA help page; (3) FTA releases certain draft documents; (4) OIG routinely releases records where Exemption 2 would apply; (5) several components review on a case-by-case basis records that are the subject of an ongoing investigation to determine if discretionary releases are possible; and (6) RITA uses a collaborative effort amongst the agency's FOIA professionals to ensure they are making discretionary releases whenever appropriate.*

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

*The presumption of openness is a frequent topic discussed at the DOT-wide monthly FOIA meetings.*

*FOIA training slides used throughout the Department include a presentation on the presumption of openness.*

*Several DOT components are taking steps to make FOIA training available through online courses and learning management systems.*

*FHWA conducted refresher training for all FOIA liaisons covering the presumption of openness and discretionary disclosure; the training materials are posted on the FHWA FOIA help page.*

*OIG offered an OIG-wide FOIA training course to increase awareness/understanding of FOIA, and therefore promote proactive disclosures. The FOIA training was webcast throughout OIG to ensure that all employees would have access to the training, and a video of the training viewable on the OIG intranet made it easily accessible for those unable to see the training live.*

*On an ongoing basis as FOIA issues arise, PHMSA reiterates to PHMSA staff the directives in the President's Memorandum and the Attorney General's Memorandum, to reemphasize the goal of a transparent government.*

*RITA posts reminders to employees regarding the presumption of openness via its electronic newsletter.*

In Section V.B.(1) of your agency's Annual FOIA Report, entitled "Disposition of FOIA Requests – All Processed Requests," the first two columns list the "Number of Full Grants" and the "Number of Partial Grants/Partial Denials." Compare your agency's 2011 Annual FOIA Report with last year's Annual FOIA Report, and answer the following questions:

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

*Yes.*

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

*Yes.*

## **Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests**

As the Attorney General emphasized in his FOIA Guidelines, “[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests.”

This section should include a discussion of how your agency has addressed the key roles played by the broad spectrum of agency personnel who work with FOIA professionals in responding to requests, including, in particular, steps taken to ensure that FOIA professionals have sufficient IT support.

Describe here the steps your agency has taken to ensure that its system for responding to requests is effective and efficient. To do so, answer the questions below and then include any additional information that you would like to describe how your agency ensures that your FOIA system is efficient and effective.

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

*Yes.*

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

*Yes. The Departmental FOIA Officer works closely with the Chief FOIA Officer, and keeps her apprised of any situation in the DOT FOIA community requiring her personal attention. The Chief FOIA Officer also periodically attends the monthly DOT-wide FOIA meetings, and meets at least annually with component heads to discuss FOIA matters. Finally, the Chief FOIA Officer has made it clear to FOIA professionals that she is willing to do whatever it takes to keep the Department’s FOIA program running effectively.*

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

*Yes. The Chief FOIA Officer and the Assistant General Counsel for Operations (who oversees the Departmental FOIA Office) are on the Department’s Open Government Executive Steering Committee. In addition, the Departmental FOIA Officer works closely with DOT’s Open Government Team in developing FOIA portions of the plan and measuring success. A highlight of this reporting period*

*was a presentation called “Open Government and FOIA: Working Together to Achieve Transparency” by the Department’s Open Government leader during one of our monthly DOT-wide FOIA programs.*

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

*The Departmental FOIA Officer conducted comprehensive reviews of DOT’s FOIA programs in January 2010, then smaller scale reviews in December 2010. During this reporting period, the Departmental FOIA Officer reviewed progress made by the components in response to recommendations made in the previous reviews, and reviewed backlog reduction and timeliness trends for each DOT component. Appropriate recommendations will be made by the Chief FOIA Officer to the heads of the components during their annual one-on-one meetings with the Chief FOIA Officer.*

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

*The monthly DOT-wide FOIA meetings are useful in identifying barriers to components’ effective and efficient implementation of their respective FOIA programs. Issues can be identified and addressed as they occur, and components have the benefit of the experience of other components by asking questions, brainstorming, and coming up with solutions.*

*During the reporting period, DOT added a new resource to the Department’s FOIA Public Liaison process. A FOIA Specialist in the Departmental FOIA Office, with strong ADR experience, is now available as a resource to both the Office of Government Information Services (OGIS) and the Department’s FOIA Public Liaisons when additional assistance is needed. This enhancement to our FOIA Public Liaison structure was made in coordination with OGIS.*

### **Section III: Steps Taken to Increase Proactive Disclosures**

Both the President and Attorney General focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Describe here the steps your agency has taken both to increase the amount of material that is available on your agency website, and the usability of such information, including providing examples of proactive disclosures that have been made during this past reporting period (i.e., from March 2011 to March 2012). In doing so, answer the questions listed below and describe any additional steps taken by your agency to make and improve proactive disclosures of information.

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

*Yes.*

2. Provide examples of the records, datasets, videos, etc, that have been posted this past year.

*FAA examples include: Commercial Space Transportation Permitting and Launch data; Next Generation of Air Traffic Control Frequently Asked Questions; and videos of aviation-related conferences, meetings, and safety training on FAA TV.*

*FHWA has posted many new documents, datasets, and videos over the past year. The videos are posted on YouTube on the FHWA Channel. Examples of new datasets posted are the Highway Statistics Series, Monthly Motor Fuel Reported by States, and Status of the Highway Trust Fund.*

*New FMCSA postings include information about the Mexican Carrier Pilot Program, webcast videos, and out of service orders for carriers.*

*FRA has posted monthly updates to its safety statistics database (i.e., records of reportable accidents and incidents), as well as Headquarters-assigned accident investigations; several dozen regulatory documents requiring publication in the Federal Register; programmatic publications and information resources (e.g., passenger station planning guide, risk reduction program analyses, NEPA-related EIS reports, guidance on HSIPR Program, Buy America, ADA level boarding requirements, grant funding obligations, and R&D technical studies).*

*FTA regularly posted information in the National Transit Database about transit trends and statistics, as well as videos to FTA's YouTube account. Training videos are also posted to FTA's training web section.*

*In October 2011, MARAD made the Public Meeting on Cargo Preference transcript and video publicly available online.*

*NHTSA posted or updated the following records, datasets, databases, and videos: Joint NHTSA-National Archives and Records Administration (NARA) study of unintended acceleration in Toyota vehicles; records relating to NHTSA Timeliness Query of Toyota Recalls for Unintended Acceleration; civil penalty settlement amounts (FY 1999-FY2011); 2011 Comparison of Insurance Costs; NHTSA Workshop on Vehicle Mass-Size-Safety; child car seat inspection locator; special crash investigations; Fatality Analysis Reporting System; 5-Star Safety Ratings for FY 2011-newer vehicles; and Vehicle Thefts, Complaints, Recalls, and Defects Investigations databases.*

*PHMSA posted NTSB Recommendations; Pipeline Webinars; Monthly Registration Reports; Monthly Pipeline Statistics; Interpretation Letters; Technical Advisories; Reports to Congress; Administrator Testimony; Pipeline Failure Investigation Reports; and Significant Pipeline Failure Investigation Records (Enbridge).*

*SLSDC's website includes information that is shared with SLSDC's Canadian counterpart organization, the Saint Lawrence Seaway Management Corporation, via the Seaway bi-national website at <http://www.greatlakes-seaway.com/en>.*

*Available information includes: news releases; Seaway notices; Notices to Shipping (MOLO); radio messages; Seaway regulations; reports/studies; presentations/speeches/articles; budget documents; and the SLSDC annual report.*

*RITA updated the “What’s New” sections for the RITA, Bureau of Transportation Statistics, and University Transportation Center web pages.*

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

*FAA uses a Web Council with representatives from all lines of business. Each line of business is responsible for the content and proactive postings on their web pages.*

*FMCSA’s program offices review material for their areas. The statistical data is routinely updated, specifically on FMCSA’s Compliance, Safety, and Accountability website.*

*Each FRA Associate Administrator and Program Office has longstanding protocols in place for determining what information should be posted online, and encourages placement of such materials online.*

*FTA has web content managers representing offices within the agency that funnel new information and web page changes for posting.*

*MARAD maintains frequent communications with program office leadership and personnel to consider questions or topics that are the subject of routine inquiries or represent information collected in the course of business. In addition, when MARAD identifies topics that have a broad community of interested stakeholders, MARAD considers posting the information.*

*NHTSA uses many sources in making sure citizens have access to relevant data. To this end, NHTSA manages many databases with both NHTSA-generated data and data provided by external entities. Data in these databases are automatically posted on websites for citizen access. Some examples of routinely posted records/content include: vehicle crash test data (Star Ratings), vehicle recall data, vehicle complaints data, vehicle defect investigation data, child passenger safety seat data, tire rating data, CAFE rulemaking data, and vehicle theft data.*

*On a regular basis, OIG reviews its records to determine whether new documents or categories of documents are appropriate for posting. Categories of records currently posted include final audit reports; new audit announcements; investigative summaries; Congressional correspondence and testimony; Semiannual Reports to Congress; ARRA Financial and Activity Reports; and ARRA Advisories.*

*PHMSA program offices have been asked to identify on an ongoing basis new items that can be posted.*

*In SLSDC, personnel whose work includes records management and FOIA-related*

*activities regularly meet with senior managers to maintain SLSDC's commitment to identify records for posting.*

*RITA posts publications and press releases following a formal review and approval process, and its web pages undergo an informal review and approval process before they are uploaded onto the appropriate website.*

4. Beyond posting new 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 capabilities, providing explanatory material, etc.?

*FAA recently released FAA Mobile, which allows frequent visitors to its website to access popular website tasks and datasets from their iphones, Androids, and tablets. Visitors can access U.S. airport status and delays, the aircraft registry, Advisory Circulars, and the location of the nearest Flight Standards District Office. At [www.faa.gov](http://www.faa.gov), FAA maintains a contact service for visitors to ask questions or provide comments about the page. FAA also receives website feedback through a customer satisfaction survey company.*

*The Federal-aid Highway Program Policy and Guidance Center (PGC) is the web-based searchable source for official Federal Aid Highway Program (FAPG) policy and guidance documents. The PGC was developed after recognizing the need for an improved electronic mechanism to manage and disseminate Federal-aid Highway Program policy and guidance documents. The PGC contains links to FAPG legislation, regulations, and other documents. All documents have been labeled with identifying information to enable browsing and searching. FHWA is scheduled to grant public access to the PGC in 2012.*

*The FHWA Bi-Annual Web Certification process implemented in FY 2011 is part of FHWA's effort to implement the principles of transparency, participation, and collaboration set forth in the President's directive. Also, FHWA has reengineered its public web site in order to provide the data in a more accessible and user-friendly manner.*

*FMCSA's website has been redesigned to be more user-friendly and streamlined.*

*FRA is actively undertaking coordinated website update and development efforts to increase the availability, accessibility, and ease-of-use of website content. Towards this end, FRA has contracted with a recognized leader in website measurement and evaluation research and analysis to aid its internal augmentation efforts. The results of user feedback solicited are providing objective metrics upon which to set benchmarks and improvement goals and objectives.*

*FTA routinely communicates with traditional and new media sources to clarify and explain records, datasets, and information posted to the agency's website and specifically the FTA FOIA Reading Room. FTA conducted a stakeholder/industry*

*survey in 2011 to obtain feedback about its customer service, programs, initiatives, and public website. FTA also launched a redesigned public website incorporating stakeholder feedback to make information more accessible and easily understood.*

*NHTSA has put in place many services and tools to assist citizens in accessing the content and also for providing feedback. They include:*

*(1) Content Categorization and Search: Content presented to the users are tagged with appropriate metadata (categories and keywords), so it can be easily searched. All the content within the website(s) are indexed for easier search capability. Enterprise search engines are configured within the websites to facilitate easy access.*

*(2) Soliciting Feedback: To assess website effectiveness from the citizens' perspectives, anonymous surveys and questionnaires are utilized on the website. Site visitors also have the ability to provide feedback via e-mail or phone.*

*(3) Analytics: Web analytics tools are used for analyzing website visitor trends. Analytics reports are used to streamline access to relevant content and to identify and prioritize improvements.*

*(4) Social Media: Social media such as YouTube, Facebook, and Twitter are used in public outreach initiatives.*

*(5) Really Simple Syndication (RSS) feeds and e-mail updates: Citizens are provided the ability to have easy access to updated content via subscription to RSS feeds or content updates via e-mail.*

*OIG expanded and improved the search capabilities on its website in its most recent major redesign. OIG also routinely provides abbreviated explanatory summaries associated with records posted on our website.*

*PHMSA recently completed the redesign/reorganization of the PHMSA homepage and is working to redesign the front landing pages of the PHMSA website to ensure the site is user friendly and provides a layout that is easy for users to locate information quickly. In addition, to make sure this reorganization continues to be successful, PHMSA provides its content owners reports that show the relevance of their content and flag outdated content for archival or deletion ensuring the site remains fresh and uncluttered. PHMSA has also given users the ability to search Historical State Waivers, Interpretations, Special Permits, and Approvals to make certain that users can easily navigate long lists of content effectively. If a user wants to receive updates on these items or any of the content on the PHMSA site, it also offers a listserv that allows customers to sign up for updates.*

*The SLSDC website solicits feedback by maintaining a number of public-facing e-mail accounts. Interested individuals are welcome to e-mail comments, suggestions, questions and other requests for SLSDC directly including through the e-mail account [info@dot.gov](mailto:info@dot.gov). SLSDC frequently updates its web-based material in an*

*effort to improve the accessibility and readability of Seaway-related content.*

*Within RITA, the Bureau of Transportation Statistics' website is using a Customer Satisfaction survey to gather feedback. Survey results reports are generated on a quarterly basis. For all RITA websites, users can send feedback via the e-mail RITA link, which can be found in the footer on nearly every RITA web page.*

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

*MARAD is currently reviewing existing procedures in light of new technology and with the present benefit of some available resources. By relying more on technology, it is MARAD's goal to reduce the administrative burden in order to allow more time and effort to be placed on FOIA review and response. We feel that with more time to review, the presumption of openness will naturally be enhanced.*

## **Section IV: Steps Taken to Greater Utilize Technology**

A key component of the President's FOIA Memorandum was the direction to "use modern technology to inform citizens about what is known and done by their Government." In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests. In 2010 and 2011, agencies reported widespread use of technology in handling FOIA requests. For 2012, the questions have been further refined and now also address different, more innovative aspects of technology use.

*Electronic receipt of FOIA requests:*

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

*Yes.*

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

*Yes.*

*Online tracking of FOIA requests:*

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

*No.*

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

*Not in the immediate future.*

*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?

*Yes.*

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

*FAA maintains several centralized databases which contain records that are frequently the subject of FOIA requests. Those offices managing the databases employ full-time FOIA specialists to process requests, making replies for accident data, enforcement records, and airman and aircraft records very timely and efficient. In addition, FAA uses a knowledge sharing platform to share responsive records between offices and to deliver FOIA responses to requesters. Finally, FAA is currently evaluating several vendors who provide electronic discovery software. This software would also be used in searching for records responsive to FOIA requests. All the reviewed vendors offer sorting and de-duplicating processes.*

*MARAD has recently upgraded to the most current version of a highly respected COTS FOIA product. With this upgrade, MARAD is able to de-duplicate and perform quicker and more advanced searches. In addition, the new software is allowing MARAD to better track response times and generate status reports.*

*OIG would like to use, but has not acquired, more advanced technology. OIG has conducted market research to find the technology that would facilitate more efficiency in the FOIA process, while at an affordable price.*

*With the assistance of the PHMSA CIO's office, PHMSA has the capability to provide large volume records to individuals through its Secure File Transfer Protocol (SFTP) website. Responsive FOIA records have been downloaded and the FOIA Program Officer assigns a user name and password. Releasable records are copied and pasted to the site and the requester can copy, paste, or print from the site the records they are seeking. The implementation of the SFTP system has increased timeliness in responding to media and complex FOIA requests. Records can be downloaded and made available immediately once the user name and password are created.*

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs**

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests and appeals. *For the figures required in this Section, please use those contained in the specified sections of your*

*agency's 2011 Annual FOIA Report.*

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

- 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?

*No.*

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

*N/A*

2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report – Backlogged Requests/Appeals," show the numbers of any backlog of pending requests or pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.

- 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. The backlog of initial requests decreased by 8 percent.*

- b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010.

*Yes. The backlog of administrative appeals decreased by 22 percent.*

- c. In Fiscal Year 2011, did your agency close the ten oldest requests that were

pending as of the end of Fiscal Year 2010?

*Yes. In addition, the age of DOT's oldest pending initial request (as of 9/30/11) was reduced by 72 days from the end of the previous fiscal year.*

- 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?

*Yes. In addition, the age of DOT's oldest pending administrative appeal (as of 9/30/11) was reduced by 119 days from the end of the previous fiscal year.*

3. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

- a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

*Answer: N/A*

- b. Was the lack of a reduction in the request backlog caused by a loss of staff?

*Answer: N/A*

- c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

*Answer: N/A*

- d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

*Answer: N/A*

Administrative Appeal Backlog:

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

*Answer: N/A*

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

*Answer: N/A*

- c. Was the lack of a reduction in the appeal backlog caused by an increase in the complexity of the appeals received?

*Answer: N/A*

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

*Answer: N/A*

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

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

*Yes. FAA agency business plans include standardized goals to increase timeliness of FOIA responses. On time information is reported to management on a monthly basis.*

*FHWA's FOIA caseload is reported out on a weekly basis to FOIA managers.*

*FMCSA sets monthly performance goals for its FOIA Specialists. FMCSA also provides FOIA status updates to the front office on a weekly basis.*

*FRA, FTA, OST, and RITA routinely monitor the progress of their respective FOIA caseloads.*

*MARAD has weekly meetings to monitor the progress of administrative, review, and response processes, to identify and address obstacles, and to consider the best strategy to provide the requester with a response. MARAD sets weekly goals and works together as a team to achieve them.*

*NHTSA's FOIA caseload is reviewed weekly by an attorney in counsel's office.*

*OIG routinely sets goals and monitors the progress of the FOIA caseload by having bi-weekly internal meetings with the FOIA Team. Impromptu meetings with non-FOIA agency staff are scheduled, as necessary, to discuss and set goals for completion of FOIA-related special projects. The OIG FOIA Office also provides monthly status reports to the Front Office Executives.*

*PHMSA monitors the number and status of requests. PHMSA routinely reviews its list of pending FOIA requests to prioritize requests, determine what the next steps are, and set a goal for resolving. Monthly, the FOIA Officer reports statistical information to the Chief Counsel on the number of pending requests and the number closed that month.*

*SLSDC's goal is to provide the requested information as soon as possible, given the complexity and size of the information request. The caseload is monitored to assure responses are provided in a timely manner.*

2. Has your agency increased its FOIA staffing?

*No.*

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

*FAA uses redaction software to decrease the time it takes to redact records. FAA also uses other electronic processes to reduce response times such as the Knowledge Sharing Network and converting paper records to electronic format.*

*FHWA has made improvements (e.g., new reports and functionality) to its FOIA tracking system, which is used by 8 of DOT's 12 components.*

*MARAD upgraded to the most current version of its COTS FOIA product.*

*During FY 2011, OIG purchased a newer version of its COTS redaction software, after having used the older version for several years. Following extensive research on available redaction software products, OIG decided to purchase the more efficient new version, which is faster and has more features.*

*In PHMSA, the implementation of the SFTP system has increased timeliness in responding to certain FOIA requests. Records can be downloaded and made available immediately once the user name and password are created.*

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?

*DOT receives very few consultations from other agencies. We are typically able to respond to consultations within 20 working days.*

## **Use of FOIA's Law Enforcement "Exclusions"**

In order to increase transparency regarding the use of the FOIA's statutory law enforcement exclusions, which authorize agencies under certain exceptional circumstances to "treat the records as not subject to the requirements of [the FOIA]," 5 U.S.C. § 552(c)(1), (2), (3), please answer the following questions:

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

No.

2. If so, what is the total number of times exclusions were invoked?

N/A

## Spotlight on Success

Out of all the activities undertaken by your agency since March 2011 to increase transparency and improve FOIA administration, describe here one success story that you would like to highlight as emblematic of your agency's efforts.

*Success Story:*

*DOT has made excellent progress in proactively disclosing a wide variety of information in a wide variety of formats during the rating period. The following success story is one such example.*

*(Note: This item is an excerpt from a February 8, 2012 post by guest bloggers White House Technology Chief Aneesh Chopra, DOT Deputy Secretary John Porcari, and Acting FAA Administrator Michael Huerta on The Secretary of Transportation's Blog "The Fast Lane" and cross posted from the White House Office of Science and Technology Policy.)*

*On January 31st, the U.S. Department of Transportation's Federal Aviation Administration (FAA) launched a [new, online dashboard](#) that provides increased transparency into a vital component of NextGen's modernization of our Nation's air transportation system infrastructure. Referred to as Performance Based Navigation (PBN), the deployment of highly efficient flight routes takes advantage of GPS satellites and advanced equipment that is already installed on most commercial airliners. The new dashboard on the [NextGen website](#) features PBN data accompanied by video depictions and an interactive map highlighting the benefits of using PBN and new flight paths around the country.*