U.S. Department of Transportation

Chief FOIA Officer Report

March 2022

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2022 Chief FOIA Officer Report

This thirteenth annual Chief FOIA Officer Report shows that the Department of Transportation (DOT or Department) continues its commitment to transparency and open government through its FOIA program. This report covers the period from March 2021 to March 2022. Statistical information included within this report is based on data from DOT's Fiscal Year 2021 statistical Annual FOIA report.

Introduction

DOT's Chief FOIA Officer is responsible for providing 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. The DOT-wide FOIA Office, housed within the Office of the General Counsel, provides direction, leadership, guidance, and assistance to the FOIA offices throughout DOT (the components). The DOT-wide FOIA Office receives weekly reports from the components, hosts a monthly DOT-wide meeting for our FOIA offices 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 the Office of the Secretary of Transportation (OST).

The following chart shows the DOT components that receive FOIA requests, along with the number of requests each received in Fiscal Year 2021:

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2021
FAA	Federal Aviation Administration	8702
FHWA	Federal Highway Administration	241
FMCSA	Federal Motor Carrier Safety Administration	5171
FRA	Federal Railroad Administration	269
FTA	Federal Transit Administration	224
GLS	Great Lakes St. Lawrence Seaway Corporation	2
MARAD	Maritime Administration	97
NHTSA	National Highway Traffic Safety Administration	289
OIG	Office of Inspector General	95
OST	Office of the Secretary of Transportation	402
PHMSA	Pipeline and Hazardous Materials Safety Administration	248

During Fiscal Year 2021, DOT expended 105.8 staff-years of effort on its FOIA programs, which included the work of 58 full-time FOIA staff. The remaining 47.8 staff-years of effort included the work of part-time FOIA professionals, contractors who worked full-time for less than the full year, detailees, program office staff who searched for records, attorneys and managers who reviewed records, and administrative support.

Many components, including FMCSA, FRA, FTA, GLS, MARAD, NHTSA, OIG, and PHMSA have centralized programs, where FOIA 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. OST's FOIA activities are primarily handled by the headquarters FOIA Office; however, one OST field office at the Volpe National Transportation Systems Center in Cambridge, Massachusetts responds directly to FOIA requests for Volpe records.

For FAA and FHWA, FOIA 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 release determinations. Even in these decentralized programs, there is an office at headquarters that oversees the implementation of the FOIA.

DOT has a FOIA Public Liaison for each DOT component. FOIA requesters can raise concerns to the FOIA Public Liaisons about service they have received from the FOIA offices. The FOIA Public Liaisons report to the Chief FOIA Officer on their FOIA liaison-related activities.

Overview of Fiscal Year 2021 Data

During Fiscal Year 2021, DOT received 15,740 requests compared with 14,632 received in Fiscal Year 2020. In addition, DOT processed 14,754 FOIA requests during Fiscal Year 2021, which was a 4.4 percent decrease from the previous fiscal year. As a result of the increase in requests received and a decrease in requests processed, the DOT backlog of requests increased from 4272 requests at the end of Fiscal Year 2020 to 4811 at the end of Fiscal Year 2021, for an increase of 12.6 percent. The Department continued to operate under a maximum telework posture which began in March 2020 because of the COVID-19 pandemic.

Section I: Steps Taken to Apply the Presumption of Openness

The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.

Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the

FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.

    A. FOIA Leadership

        1. **The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at this level?**

        Yes.

        2. **Please provide the name and title of your agency's Chief FOIA Officer.**

        DOT's Chief FOIA Officer is Judith S. Kaleta, Deputy General Counsel.

    B. FOIA Training

        3. **The FOIA directs agency Chief FOIA Officers to ensure that FOIA training is offered to agency personnel. See 5 U.S.C. § 552(a)(j)(2)(F). Please describe the efforts your agency has undertaken to ensure proper FOIA training is made available and used by agency personnel.**

        DOT FOIA leadership consistently provides opportunities for agency personnel to receive FOIA training DOT's FOIA Officer transmits all publicized training notifications from entities such as DOJ/OIP, the Office of Government Information Services (OGIS), and the American Society of Access Professionals (ASAP) to the component FOIA officers. The component FOIA Officers ensure FOIA personnel are aware of these training opportunities and are encouraged to attend. Also, the DOT FOIA Officer announces future training opportunities at the Monthly DOT FOIA Meeting, which is open to all agency FOIA personnel to attend. Substantive FOIA training is conducted at the monthly meetings as well.

        4. **Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend substantive FOIA training during the reporting period such as that provided by the Department of Justice?**

        Yes

        5. **If yes, please provide a brief description of the type of training attended or conducted and the topics covered.**

        Agency personnel attended DOJ Online training sessions on topics including: Virtual Introduction to the Freedom of Information Act, Virtual Procedural Requirements and Fees Workshop, OIP Annual FOIA Report Training, OIP Sunshine week training, OIP Best

Practices FOIA Administration During the Pandemic, OIP Virtual Exemption 4 and 5 Workshop, OIP Virtual Continuing FOIA Education, OIP Virtual Privacy Considerations Workshop, OIP Virtual Continuing FOIA Education Training, and Advanced Litigation Considerations.

DOT FOIA personnel also attended the ASAP Virtual National Training Conference and an ASAP Tech Talk Virtual Event.

DOT FOIA Professionals also conducted in-house FOIA training sessions throughout the year:

The FAA Office of Chief Counsel (Information Law Practice) and the FOIA Program Management Division hosted three workshops on FOIA Processing, presented in two, one-hour sessions. Additionally, FAA presented one-hour workshops on Exemption 2, Exemption 3, Exemption 5, Exemption 6, and Subpoenas for records.

Beginning in August 2021, FHWA kicked off a 5-module, 11-week virtual learning plan consisting of written training material, recorded videos, and live question and answer sessions. Following the completion of the program, FHWA transitioned back to conducting quarterly training with its first quarterly webinar in Fiscal Year 2022 focused on procedural requirements.

Finally, at each monthly DOT FOIA Meeting, the DOT FOIA Officer led training on different topics throughout the year. Training topics covered in 2021 included: Role of the FOIA Public Liaison, FOIA Fees, discussion on a "Fixing FOIA" conference, the U.S. Supreme Court Decision in Fish and Wildlife Service v. Sierra Club, FOIA Exemption 4 Post Argus, Court Decision--Reporters Comm. for Freedom of the Press v. U.S Customs & Border Protection, and the significance of other recent court decisions related to FOIA.

6. **Please provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.**

   90%

7. **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

8. **Did the personnel at your agency who have FOIA responsibilities attend training in federal records management during this reporting period?**

Yes, records management training is mandatory for all DOT employees.

C. *Outreach*

9. **Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.**

All DOT component FOIA Offices are encouraged to reach out to the requesters in order to clarify and better respond to requests.

Several FAA FOIA Coordinators and Information Law Attorneys participated in the Chief FOIA Officers' Technology Committee in Fiscal Year 2021. The information shared by committee members has been useful in offering alternative methods for making large productions to requestors and for sharing files with business stakeholders.

FHWA has participated in multiple engagements with requesters throughout the year to both explain USDOT FOIA requirements under 49 CFR, as well as provide assistance with formulating requests such as describing records in sufficient, and sometimes slightly less technical detail. For example, noting in the request that the key terms relate to bridges and structures versus using the hardware/engineering terminology only. This has allowed headquarters FOIA personnel to route requests to the appropriate office more quickly, without the need to research technical descriptions of some records being requested to determine the office(s) most likely to have responsive records.

The OIG FOIA team met virtually with a FOIA requester law firm that sought records related to a Canadian police force and Canadian national railway company with ties in the U.S. The OIG FOIA team and OIG Auditor met with the requester's team to talk about the case and to clarify the various aspects of the request. During this meeting, the OIG Auditor reviewed the records and confirmed that no OIG records were responsive to the request. The only records

that related to the request belonged to another agency. OIG had already referred those records to that agency. This meeting brought clarity and was instrumental in answering the requester's questions and concerns, and by facilitating a close out of the request.

PHMSA's FOIA Officer has served as a member of the Chief FOIA Officers Council Committee on Cross-Agency Collaboration and Innovation (COCACI) and co-chair of the Government Information Specialist (GIS) Professionalization subcommittee since April 2021. Professionalizing the GIS job series will lead to improvements in the future, including better customer service, decreased processing times, and other program efficiencies. As a member of this group, research initiatives have included dialogue with ASAP on this group's efforts to professionalize the job series.

Finally, as a co-chair of the Chief FOIA Officers Council Committee on Cross-Agency Collaboration and Innovation (COCACI), the DOT/OST FOIA Officer spoke at both publicly attended Chief FOIA Officers Committee meetings in 2021. He updated the FOIA community at-large on the Committee's progress on promoting initiatives for clear career trajectories for FOIA professionals (Government Information Specialist Job Series), taking lessons learned from the pandemic to transform FOIA Offices to thrive in a virtual environment, and providing FOIA Offices with information on accessing revenues streams and resources.

DOT FOIA personnel also engaged with the requester community by participating in training and committees sponsored by organizations such as ASAP and OGIS.

D. Other Initiatives

10. **Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In particular, please describe:**

    - **how often and in what formats your agency provides FOIA training or briefings to non-FOIA staff; and**

    - **if senior leaders at your agency received a briefing on your agency's FOIA resources, obligations and expectations during the FOIA process?**

A FOIA representative briefs all incoming DOT employees on their responsibilities under FOIA at the bi-weekly DOT New Employee Orientation. All DOT components conducted, as appropriate, one-on-one discussions with record holders on their obligations to furnish information under FOIA. Also, DOT provides a separate briefing to all new political appointees to ensure they are aware of their responsibilities under FOIA.

In addition, DOT components have instituted many of their own programs to work with non-FOIA professionals within DOT. For example, the FAA offers a self-paced, self-assigned FOIA and Privacy Act training course to all employees through the Agency's electronic learning management system. In addition, FHWA's FOIA Officer is a member of the Extended Leadership Team (ELT), meeting monthly, and Administration Leadership Advisory Group (ALAG), meeting quarterly, and provides regular briefings on the administration of FHWA's FOIA program as well as Fully Leveraging Expertise (FLEx) initiative – which for FOIA focuses on expanding the knowledge of the agency's FOIA professionals. Also, PHMSA partners with its Records Manager for an Annual Cross-Training Initiative for FOIA Coordinators and Record Liaisons. Finally, the OST FOIA office hosted a "Brown Bag" lunch during Sunshine Week to inform OST personnel about the basic tenets of the FOIA, their responsibilities as DOT employees, and to discuss current issues in Open Government.

11. **Optional -- If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.**

    N/A

Section II: Steps Taken to Ensure that DOT Has an Effective System in Place for Responding to Requests

DOJ's FOIA Guidelines emphasize that "[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." It is essential that agencies effectively manage their FOIA program.

Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.

1. **For Fiscal Year 2021, 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 2021 Annual FOIA Report.**

   6.59

2. **If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, according to Section VIII.A. of your agency's Fiscal Year 2021 Annual FOIA Report, please describe the steps your**

agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Timely processing of expedited processing requests will be a frequent topic at DOT Monthly FOIA meetings throughout the year.

3. **The FOIA Improvement Act of 2016 required all agencies to update their FOIA regulations within 180 days. In 2016, OIP issued Guidance for Agency FOIA Regulations and the accompanying Template for Agency FOIA Regulations to assist agencies in updating their regulations in accordance with the statute. Has your agency updated its FOIA regulations in accordance with the FOIA Improvement Act of 2016? If not, what is your agency's plan to update your regulations?**

Yes.

4. **Standard Operating Procedures (SOPs) generally document your agency's internal processes for administering the FOIA beyond your FOIA regulations and FOIA Reference Guide. As noted in OIP's guidance, having SOPs can improve the consistency and quality of an agency's FOIA process. SOPs can also serve as a significant resource for incoming FOIA professionals and a way to preserve much of the agency's institutional knowledge on administering the FOIA from how to handle requests from start-to-finish, to identifying and making proactive disclosures, to maintaining a FOIA website. Does your agency have up-to-date internal SOPs for your FOIA administration?**

Each DOT Operating Administration is responsible for creating and maintaining SOPs for its FOIA Office. Currently, all but two DOT Operating Administrations have up-to-date internal SOPs.

5. **If not, please provide a timeline for when your agency plans to develop or update its SOPs.**

All DOT Operating Administrations will have up-to-date SOPs by December 2022.

6. **Has your agency established alternative means of access to first-party requested records outside of the FOIA process?**

Yes.

7. **If yes, please provide examples. If no, please explain if such opportunities exist at your agency and whether there are any challenges in establishing alternative means of access.**

   The FAA receives numerous requests for airmen medical records and certificates. Processing these types of requests is routine, as the records are collected from a specific system of record. The FAA Office of Chief Counsel developed guidelines to ensure consistent withholdings regardless of which FOIA Coordinator processes the records. While the FAA receives numerous requests for these types of records, the specific records (i.e., specific airman) varies highly. Given the large volume of these types of records and their containing PII, access under the FOIA is the best means of access.

   Also, the FMCSA FOIA Office processes requests for motor carrier drivers who need their driving records for employment. These requests also come in from HR offices looking to hire a driver for their company. The staff ensures FMCSA has a copy of a Privacy Act waiver or authorization from the individual before releasing the information. After required documents are reviewed, the FMCSA staff processes these requests immediately and are usually processed within 10 working days.

   The other Operating Administrations within DOT do not receive a significant amount of first-party requests.

8. **Did your agency conduct a self-assessment of its FOIA administration during the reporting period? If so, please describe the self-assessment methods used, such as analyzing Annual Report or raw data, using active workflows and track management, reviewing and updating processing procedures, etc. In addition, please specifically highlight any data analysis methods or technologies used to assess your agency's FOIA program.**

   FRA regularly conducted assessments of its FOIA program. The FRA team discussed fee assessment procedures, team member responsibilities, and the status of the FOIA backlog, and generated reports and performs comparisons from previous years. Responsibilities and workflow were then reorganized to create more efficient processes.

   In addition, NHTSA regularly updated its FOIA processing procedures during the course of the year. The agency assessed its processing procedures on a case by case basis as the need arose. When the need for a correction was identified, the agency amended its processing procedures accordingly.

The OIG FOIA office conducted self-assessments by using active workflows and track management. The OIG FOIA team met regularly (usually bi-weekly or sooner) to discuss the pending FOIA cases.   The OIG FOIA team used the FOIA Log report in UPACS/FOIAXpress to track pending requests, to prioritize workflow of cases by track, to follow up with program offices who owe outstanding search results, and to follow up with agencies who owe outstanding consults. Based on this process, The OIG FOIA team established/met internal deadlines.

Finally, PHMSA determined there was a business need to review and update processing procedures after switching to a new FOIA system, FOIAXpress.

9. **The FOIA Improvement Act of 2016 requires additional notification to requesters 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 2021 (please provide a total number or an estimate of the number).**

DOT FOIA Public Liaisons were contacted approximately 302 times during Fiscal Year 2021.

10. **Has your agency reviewed its FOIA-related staffing capabilities to identify resources needed to respond to current and anticipated FOIA demands?**

Yes. Those components that identified a need for more FOIA staff are taking steps to address that need during 2022.

11. **Optional -- Please describe:**
    - **Best practices used to ensure that your FOIA system operates efficiently and effectively**
    - **Any challenges your agency faces in this area**

N/A

Section III: Steps Taken to Increase Proactive Disclosures

The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.

Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to

the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.

1. **Please describe what steps your agency takes to identify, track, and post (a)(2) proactive disclosures.**

   In Fiscal Year 2021, the FAA developed guidance to be utilized by its program offices that identify procedures applicable when handling FOIA requests and records identified for proactive disclosure.

   In addition, FHWA program offices each maintain public webpages and are required to track and post (a)(2) proactive disclosure material.

   The FMCSA FOIA Office reviews received requests and searches for previous requests for the same information. Once the records are requested multiple times, the team adds it to a running list of future proactive disclosures for publishing. Proactive disclosures are also added to the staff's performance standards and tracked through individual accomplishments.

   NHTSA proactively discloses large amounts of information ranging from grant information to enforcement cases involving allegedly defective or noncompliant motor vehicles and equipment. NHTSA routinely publishes these records on its website at www.NHTSA.gov.

   The PHMSA FOIA Team works closely with public-facing agency personnel to help examine whether information should be made publicly available without the need to submit a FOIA request. This includes the Office of International, Governmental, and Public Affairs; and Public Liaisons in PHMSA's Office of Pipeline Safety.

2. **Provide examples of any material that your agency has proactively disclosed during the past reporting year, including records that have been requested and released three or more times in accordance with 5 U.S.C. § 552(a)(2)(D). Please include links to these materials as well.**

   All DOT components proactively posted information about high-visibility/high-impact programs on their main pages and/or program pages. Within the [main DOT briefing room](), we have posted [press releases](), and [speeches](). The main DOT briefing room also contains links to [featured DOT social media sites]().

   The OST FOIA Office posted resources such as the [Annual FOIA Reports to Congress](), [Quarterly FOIA Reports](), and [Chief FOIA Officer Reports]() on its FOIA website.

The following records can be accessed in the FAA Reading Room at this link: https://www.faa.gov/foia/electronic_reading_room/:

- *Settlement Agreements*
  - *2015 Boeing Settlement Agreement (PDF)*
  - *2015 Boeing Settlement Agreement – Deferred Penalties (PDF)*
  - *2021 Boeing Settlement Agreement – Interference (PDF)*
- *Geographic listing of hobbyist/non-hobbyist sUAS registry enrollments and registrants*
  - *CY 2021 Q3 (MS Excel)*
  - *CY 2021 Q2 (MS Excel)*
  - *CY 2021 Q1 (MS Excel)*
  - *CY 2020 Q4 (MS Excel)*
- *Stale-Dated/Uncashed Checks*
  - *FY 2020 Q4 (PDF)*
  - *FY 2021 Q1 (PDF)*
  - *FY 2021 Q2 (PDF)*
- *FOIA Logs*
  - *FY 2021 FOIA Logs (October to April)*
  - *FY 2020 FOIA Logs (May to September)*

The following are disclosures in the Boeing 737 MAX Reading Room (https://www.faa.gov/foia/electronic_reading_room/boeing_reading_room/):

- *Rescission of the Grounding Order (PDF)*
- *Final Rule/Airworthiness Directive (PDF)*
- *Flight Standardization Board (FSB) Report (PDF)*
- *Summary of FAA's Review of the Boeing 737 MAX (PDF)*
- *Technical Advisory Board (TAB) Final Report (PDF)*
- *Boeing 737 MAX Timeline (PDF)*
- *FAA Continued Airworthiness Notification to the International Community (CANIC) (PDF)*
- *FAA Response to Official Report of the Special Committee on FAA's Aircraft Certification Process, April 2020 (PDF)*
- *FAA Safety Hotline Complaints*
  - *Aviation Safety System Hotline Complaints*
    - *Summary of Complaints (FYs 2017 through 2019) - Spreadsheet of all Safety System Hotline Complaints filed with FAA pertaining to "Boeing 737 MAX" (PDF)*
    - *S20180530018 (FOIA Request 2019-002366) (PDF)*
    - *S20180924038 (FOIA Request 2019-005361) (PDF)*
    - *S20190312001 (FOIA Request 2019-005361) (PDF)*
    - *S20190318006 (FOIA Request 2019-005361) (PDF)*
    - *S20190325008 (FOIA Request 2019-005361) (PDF)*
    - *S20190402009 (FOIA Request 2019-005361) (PDF)*
    - *S20190404014 (FOIA Request 2019-005361) (PDF)*
  - *Whistleblower Complaints*
    - *EWB16512 (FOIA Request 2019-008586) (PDF)*

The FHWA Office of Safety categorized and listed publicly available records associated with eligibility letters (https://safety.fhwa.dot.gov/roadway_dept/countermeasures/reduce_crash_severity/).

FHWA also proactively posted its yearly FOIA log in addition to the FHWA Small Purchase Cardholders "list" (https://www.fhwa.dot.gov/foia/err.cfm).

FMCSA published the Electronic Field Operations Training Manual (eFOTM) that was developed for providing a comprehensive guide to enforcement staff when conducting or managing investigations, audits, and roadside inspections. This document was requested 3-to-5 times a year before FMCSA regularly published this in the electronic reading room. The latest version was published this year. https://www.fmcsa.dot.gov/foia/electronic-field-operations-training-manual-efotm-version-50

FMCSA also published and regularly updated the Mexico-Domiciled Motor Carriers authorized to Operate Long-Haul, which was frequently requested before it was made public. https://www.fmcsa.dot.gov/foia/mexico-domiciled-motor-carriers-authorized-operate-long-haul-under-op-1mx-authority

This year the FMCSA FOIA Office was also able to publish FOIA logs for FY 17-21 and records on a commonly requested motor carrier. The records for the carrier have been requested 14 times in the past 5 years.

FRA post the following safety information on its site:

- Railroad safety information including accidents and incidents, inventory and highway-rail crossing data readily available to the public. Site users can run dynamic queries, download a variety of safety database files, publications and forms, and view current statistical information on railroad safety. https://safetydata.fra.dot.gov/offivvceofsafety/default.aspx
- Safety Advisories: https://railroads.dot.gov/elibrary-search?f%5B0%5D=document_series%3A14976
- Compliance Manuals: https://railroads.dot.gov/elibrary-search?f%5B0%5D=document_series%3A14801
- Technical Bulletins: https://railroads.dot.gov/elibrary-search?f%5B0%5D=document_series%3A14821
- FRA FY 2020 FOIA Log: https://railroads.dot.gov/elibrary/foia-log-fy-2020
- Accident Investigations: https://railroads.dot.gov/elibrary-search?f%5B0%5D=document_series%3A14786
- Enforcement and Litigation Information: https://railroads.dot.gov/elibrary-search?f%5B0%5D=document_series%3A14746
- Current Environmental Reviews: https://railroads.dot.gov/environment/current-environmental-reviews/current-environmental-reviews
- Completed Environmental Reviews: https://railroads.dot.gov/environment/completed-environmental-reviews/completed-environmental-reviews
- General reports and other FRA information not mentioned above: https://railroads.dot.gov/elibrary-search

The PHMSA FOIA Office posted the following information:

- FOIA Logs: PHMSA FOIA Logs | PHMSA (dot.gov)

- o Program record of public interest: ETS Special Permit Renewal Application | PHMSA (dot.gov)

3. **Does your agency disseminate common types of material outside of FOIA, including in online databases where the public may access them? If yes, please provide examples and, if applicable, statutory authority.**

The Office of Aviation Consumer Protection in OST relaunched its Aviation Consumer Protection Website to provide information and assist air travelers during the pandemic:

Aviation Consumer Protection | US Department of Transportation

The FAA posts records related to aviation accidents and incidents, such as air traffic control audio recordings, reports of findings, accident investigation policies, and runway incursions. The FAA also hosts an online database that allows the end-user to query multiple database on aircrafts, aviation carrier statistics, and accidents and incidents. Type Certificate Data Sheets (TCDS) are also publicly-available. TCDS are formal descriptions of the aircraft, engine or propeller; listing limitations and information required for type certification including airspeed limits, weight limits, thrust limitations, etc. The Aircraft Registry is also publicly-available. The registry allows the end user to search for registered tail-number of aircraft. Users may also download the aircraft registry database.

FHWA program offices post a wide variety of material outside of FOIA including case studies, manuals, publications, and legislative & policy documents on their public webpages.

FMCSA publishes general information on motor carriers in the Safety and Fitness Electronic Records System (SAFER) that can be accessed by the public. FMCSA also has public websites where anyone can view safety information on motor carriers in Safety Measurement System.

https://safer.fmcsa.dot.gov/

https://ai.fmcsa.dot.gov/SMS/

MARAD posts Vessel Status Cards for viewing:

https://vesselhistory.marad.dot.gov/ShipHistory/ShipList?pageNumber=1&matchFromStart=True

The DOT OIG Recommendation Dashboard is an online database located on the DOT OIG website that makes information available for each audit report that had one or more open recommendations as of July 1, 2016:

[Recommendation Dashboard | Office of Inspector General | U.S. Department of Transportation (dot.gov)](#)

A wide variety of information is made available on PHMSA's public-facing website for both of PHMSA's pipeline and hazmat program offices. For example, on the Pipeline Data and Statistics Overview homepage, "Frequently Requested Data" is highlighted, including:

[Pipeline Mileage and Facilities | PHMSA (dot.gov)](#)

[Pipeline Incident Flagged Files | PHMSA (dot.gov)](#)

[Pipeline Incident 20 Year Trends | PHMSA (dot.gov)](#)

Furthermore, PHMSA's Office of Pipeline Safety links to other pipeline data and information from the Data and Statistics Overview homepage. Examples as follows:

Enforcement: [PHMSA: Stakeholder Communications - Enforcement Activity (dot.gov)](#)

Mapping: [NPMS – Home (dot.gov)](#)

Operator Information portal: [Oracle BI Interactive Dashboards - Operator Search (dot.gov)](#)

Source Data: [Source Data | PHMSA (dot.gov)](#)

4. **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.

5. **If yes, please provide examples of such improvements. In particular, please describe steps your agency is taking to post information in open, machine-readable, and machine-actionable formats, to the extent feasible. If not posting in open formats, please explain why and note any challenges.**

FHWA has prioritized providing 508(c) training to ensure materials are created with accessibility in mind. Some materials still pose a significant challenge, such as a frame-by-frame pictures from videos of roadside safety equipment testing, where tags may be describing changes in a picture over a matter of seconds.

FRA redesigned its website including portions that contain publicly accessible records making access easier with direct links to information. Freedom of Information Act (FOIA)   FRA (dot.gov)

NHTSA's safety ratings and safety issues (Recalls, Investigations, Consumer Complaints and Manufacturer Communications) published to www.nhtsa.gov has been made more user-friendly

with increased search capability such as by Vehicle Identification Number (VIN), Make, Model & Model year. A new date range search feature to identify recalls and investigations is another important feature that researchers and individuals quiet rely on regularly.

NHTSA has also taken steps to improve the usability of the auto recall areas of NHTSA.gov. For example, NHTSA updated the website's VIN search results page to clarify that the page does not include repaired recalls. NHTSA also added a consumer brochure that explains the agency's recalls process and frequently asked questions. The Takata airbag recalls are the largest and most complex vehicle recalls in U.S. history. Currently, these recalls involve 19 vehicle manufacturers and approximately 56 million Takata airbag inflators in an estimated 41.6 million vehicles. A dedicated Takata recall spotlight page has been published with an abstract list of affected vehicles and interactive visual charts along with a frequently asked questions (FAQ)s for the consumers.

The DOT OIG Office of Auditing and Evaluation makes recommendations to the DOT and certain independent transportation entities to correct deficiencies and encourage improvements in the safety, economy, efficiency, and management of their programs and operations. Its Recommendation Dashboard, located on the DOT OIG website, provides up-to-date information about the status of OIG audit recommendations.

PHMSA incident data is now accessible in various formats, including data tables for members of the public to access, sort, and review, as needed.

6. **Does your proactive disclosure process or system involve any collaboration with agency staff outside the FOIA office? If so, describe this interaction.**

The FAA operates a decentralized FOIA program. As such, individual program offices receive FOIA requests for processing from the FAA's FOIA Program Management; each program office is responsible for processing the requests and responding directly to the requestor. As FOIA Coordinators within the individual program offices become aware that records are being requested multiple times or if events of public interest may spark an influx of FOIA requests, they contact the FAA FOIA Program Management Division to arrange for the records to be posted to the FOIA Library.

The OIG FOIA team collaborates with the OIG communications and public affairs teams to post proactive disclosures on the OIG website.

The PHMSA FOIA Office routinely collaborates with PHMSA's Office of International, Governmental, and Public Affairs and PHMSA's Office of Pipeline Safety Public Liaisons to determine what information is being requested outside of the FOIA process by members of the public and news media representatives.

Optional -- Please describe:

- o **Best practices used to improve proactive disclosures**

- o **Any challenges your agency faces in this area**

   N/A

Section IV: Steps Taken to Greater Utilize Technology

A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.

Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.

1. **Has your agency reviewed its FOIA-related technological capabilities to identify resources needed to respond to current and anticipated FOIA demands?**

    Yes

2. **Please briefly describe any new types of technology your agency began using during the reporting period to support your FOIA program.**

    During 2021, DOT fully implemented the FOIAXpress system for all DOT FOIA Offices. DOT had been planning a move to an agency-wide tracking and redacting system for more than two years. The move cuts IT costs for the Department and enables all DOT Operating Administrations to process requests using the same system.

3. **OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources, and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?**

    Yes.

4. **Did all four of your agency's quarterly reports for Fiscal Year 2021 appear on your agency's website and on FOIA.gov?**

    Yes.

5. **If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2022.**

   N/A

6. **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 2020 Annual FOIA Report and, if available, for your agency's Fiscal Year 2021 Annual FOIA Report.**

   The Fiscal Year 2020 Annual FOIA Report may be found here: [FY 2020 Annual FOIA Statistical Report | US Department of Transportation](#)

   The Fiscal Year 2020 Raw Data may be found here: [2020 Annual FOIA Report to Congress - Raw Data | US Department of Transportation](#)

   The Fiscal Year 2021 Annual FOIA Report has not been posted as of this date.

7. **Optional -- Please describe:**

   • **Best practices used in greater utilizing technology**

   • **Any challenges your agency faces in this area**

Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report 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, appeals, and consultations.

For the figures required in this Section, please use the numbers contained in the specified sections of your agency's FY 2020 and 2021 Annual FOIA Reports.

A. Simple Track

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.

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

   Yes.

2. **If your agency uses a separate track for simple requests, according to Annual
   FOIA Report section VII.A, was the agency overall average number of days to
   process simple requests twenty working days or fewer in Fiscal Year 2021?**

   No.

3. **Please provide the percentage of requests processed by your agency in Fiscal
   Year 2021 that were placed in your simple track. Please use the following
   calculation based on the data from your Annual FOIA Report: (processed simple
   requests from Section VII.C.1) divided by (requests processed from Section V.A.)
   x 100.**

   87 percent.

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

B. Backlogs

When answering these questions, please refer to you Fiscal Year 2021 Annual FOIA
Report, Sections XII.D-E, which compare the numbers of requests and appeals received,
processed, and backlogged between Fiscal Years 2020 and 2021.

BACKLOGGED REQUESTS

5. **If your agency had a backlog of requests at the close of Fiscal Year 2021, according to Annual FOIA Report Section XII.D.2, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?**

    No.

6. **If not, according to Annual FOIA Report Section XII.D.1, did your agency process more requests during Fiscal Year 2021 than it did during Fiscal Year 2020?**

    No.

7. **If your agency's request backlog increased during Fiscal Year 2020, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

    An increase in the number of incoming requests.

    A loss of staff.

    An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

    Impact of COVID-19 and workplace and safety precautions

    Any other reasons – please briefly describe or provide examples when possible.

    While the Department's backlog increased overall, only three of DOT's Operating Administrations had significant backlog increases. The OST FOIA Office closed almost 100 more requests in Fiscal Year 2021 than in Fiscal Year 2020. However, the office received 46 more requests than in Fiscal Year 2020 causing the OST backlog to increase from 651 to 666.

    The FMCSA FOIA Office also saw its backlog increase due to an increase in requests received in Fiscal Year 2021. FMCSA received 5171 requests in Fiscal Year 2021 compared to 4174 requests in Fiscal Year 2020. That increase led to FMCSA's backlog increasing despite processing 4317 requests in Fiscal Year 2021 compared to 3514 requests processed in Fiscal Year 2020.

The NHTSA FOIA Office's backlog increased due to a loss of FOIA contractor staff and an increase in the complexity of the requests it received.

8. **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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged requests from Section XII.A) divided by (requests received from Section V.A) x 100. This number can be greater than 100%. If your agency has no request backlog, please answer with "N/A."**

    30.5 percent.

BACKLOGGED APPEALS

9. **If your agency had a backlog of appeals at the close of Fiscal Year 2021, according to Section XII.E.2 of the Annual FOIA Report, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2020?**

    No.

10. **If not, according to section XII.E.1 of the Annual FOIA Report, did your agency process more appeals during Fiscal Year 2021 than it did during Fiscal Year 2020?**

    No.

11. **If your agency's appeal backlog increased during Fiscal Year 2021, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:**

    An increase in the number of incoming appeals.

    A loss of staff.

    An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

    Impact of COVID-19 and workplace and safety precautions.

    Any other reasons – please briefly describe or provide examples when possible.

The Agency's appeal backlog increased due to increased complexity in the appeals received.

12. **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 2021. Please use the following calculation based on data from your Annual FOIA Report: (backlogged appeals from Section XII.A) divided by (appeals received from Section VI.A) x 100. This number can be greater than 100%. If your agency did not receive any appeals in Fiscal Year 2021 and/or has no appeal backlog, please answer with "N/A."**

161 percent.

C. Backlog Reduction Plans

13. **In the 2021 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2020 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 2021?**

Yes, the agency implemented a backlog reduction plan last year. OST continued a backlog reduction plan in Fiscal Year 2021. The plan focused on a more targeted approach to setting closure goals, which requests to target for closure, and more flexibility in reassigning requests to FOIA analysts for immediate processing. This plan led to the OST FOIA Office closing almost 100 more requests in Fiscal Year 2021 than in Fiscal Year 2020.

With a 24 percent increase of incoming requests, FMCSA has not be able to reduce its backlog; however, FMCSA has made improvements on processing, customer service and publishing information.

The FMCSA FOIA Office continues updating procedures to respond quickly to smaller simpler requests. These are requests that are seeking a single document, or fewer than 5 responsive documents. This allows the FOIA staff to quickly process requests instead of placing them in the processing queue.

More experienced FMCSA FOIA Analysts have been able to respond directly to requests without second-level review except for requests with extensively redacted responsive documents. The agency's backlog is reviewed for requests that might result in documents that might contain significant redactions and assigned accordingly.

14. **If your agency had a backlog of more than 1,000 requests in Fiscal Year 2021, please explain your agency's plan to reduce this backlog during Fiscal Year 2022. In particular, please also detail how your agency developed and plans to execute your backlog reduction plans.**

Three DOT components (FMCSA, NHTSA, OST) with backlogs will each continue to implement a plan to reduce the backlog during Fiscal Year 2022.

FMCSA has increased FOIA support contractors from 2 to 6 FOIA Specialists. FMCSA is also an active sponsor of the DOT's Pathway and Rotation programs having hosted 2 interns and 1 detailee. FMCSA FOIA also provided individual development opportunities and allocated resources to support the program. The FMCSA FOIA Team is preparing frequently requested records for the FOIA website. Finally, frequent reviews of the FMCSA backlog are conducted for previously processed requests for the same records and requests that can be processed without a second level review.

NHTSA plans to hire more contractors to replace the ones who departed in order to deal with the increase in the complexity of the requests it receives.

OST will continue its backlog reduction initiative begun in Fiscal Year 2020, as that plan greatly increased productivity as the OST FOIA Office processed 50 percent more requests than the year before in both Fiscal Year 2020 and Fiscal Year 2021. For Fiscal Year 2022, OST plans to increase its use of automated e-mail searching to fulfill requests asking for records with similar subject matter.

Finally, the entire Department will benefit from increased efficiency derived from all components using the same tracking and redacting system for the entire fiscal year. This software will increase coordination among program offices and allow for more detailed tracking of requests, which will lead to increased efficiency in processing times.

D. Status of Oldest Requests, Appeals, and Consultations

Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your

Annual FOIA Reports for both Fiscal Year 2020 and Fiscal Year 2021 when completing this section of your Chief FOIA Officer Report.

OLDEST REQUESTS

15. **In Fiscal Year 2021, did your agency close the ten oldest pending perfected requests that were reported in Section VII.E. of your Fiscal Year 2020 Annual FOIA Report?**

    Yes.

16. **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 2020 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.**

    N/A

17. **Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.**

    DOT has an increased focus specifically on those older pending requests. The new tracking system will allow better management oversight of the oldest pending requests. This will allow for more persistent follow-up activities with the program offices from whom we are awaiting records. By implementing more efficient search methods for these older records, we can reorient FOIA staff workflow to add emphasis to closing older requests.

TEN OLDEST APPEALS

18. **In Fiscal Year 2021, did your agency close the ten oldest appeals that were reported pending in Section VI.C.5 of your Fiscal Year 2020 Annual FOIA Report?**

    No.

19. **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 VI.C.(5) of your Fiscal Year 2020 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.**

    The Department did not close any of its ten oldest appeals.

20. **Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.**

FAA analysts examined the administrative files for the oldest requests and appeals and followed up with the appropriate offices to process. As a result, the Department closed its ten oldest requests.

TEN OLDEST CONSULTATIONS

21. **In Fiscal Year 2021, did your agency close the ten oldest consultations that were reported pending in Section XII.C. of your Fiscal Year 2020 Annual FOIA Report?**

No.

22. **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 2020 Annual FOIA Report. If you had less than ten total oldest consultations to close, please indicate that.**

The Department did not close any of its ten oldest consultations.

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

23. **Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2020.**

At the end of Fiscal Year 2020, the FAA possessed all of the Department's ten oldest requests, appeals, and consultations. The FAA closed all of the Department's ten oldest requests, none of the ten oldest appeals, and none of the ten oldest consultations from Fiscal Year 2020. The primary obstacles encountered by the FAA in closing these oldest appeals and consultations were staff-turnover and locating the original requests for consultation.

24. **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

25. 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 2021.

The FAA plans to inventory the ten oldest consultations and determine their true statuses, as some consultations may have been closed in past fiscal years, but not properly documented in the FAA's legacy case management system. As such, some consultations may report as open, when in actuality they are closed. In Fiscal Year 2022, the FAA plans to close at least 10 percent of their oldest appeals.

E. Success Stories

Out of all the activities undertaken by your agency since March 2021 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas, but should not be something that you have reported in a prior year. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.

- Implementing FOIAXpress for the entire Department of Transportation was a multi-modal effort that began in 2018
- The OST Office of the General Counsel, OST FOIA Office, FAA FOIA Office, the Office of the Chief Information Officer, and FHWA's IT Acquisition Center of Excellence all worked together to complete the acquisition
- The offices involved cooperated to demonstrate the need for an agency-wide system, prove its financial benefits, select a product, and award the final contract in approximately 60 percent of the standard award time.
- The entire DOT FOIA Program will benefit for years from offices across DOT working together to complete this massive undertaking to provide greater efficiency to DOT FOIA processing.