

# **U.S. Department of Transportation**



## **Chief FOIA Officer Report**

March 2014

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**Deputy General Counsel**

# 2014 Chief FOIA Officer Report

## U.S. Department of Transportation

I am pleased to demonstrate in this fifth annual Chief FOIA Officer Report that the Department of Transportation (DOT or “Department”) continues its commitment to applying the presumption of openness, ensuring that DOT has an effective system in place to respond to FOIA requests, making proactive disclosures, using technology to increase the timeliness of our disclosures, and reducing backlogs.

This report covers the period of March 2013 to March 2014. Statistical information related to backlogs is based on data from DOT’s FY 2013 statistical annual FOIA report.

### DOT’s FOIA Structure

As DOT’s Chief FOIA Officer, I am responsible for providing high-level oversight and support to the Department’s FOIA programs and recommend 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. 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 Office of the Secretary of Transportation (OST).

The following chart shows the DOT components that receive and respond to FOIA requests<sup>1</sup>, along with the number of requests each received in FY 2013:

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2013
<b>FAA</b>	Federal Aviation Administration	6,650
<b>FHWA</b>	Federal Highway Administration	407
<b>FMCSA</b>	Federal Motor Carrier Safety Administration	1,793

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<sup>1</sup> The Surface Transportation Board, administratively part of the Department but in other respects an independent entity, operates independently of the Department with respect to FOIA matters, and submits a separate Chief FOIA Officer Report to the U.S. Department of Justice (DOJ).

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2013
<b>FRA</b>	Federal Railroad Administration	376
<b>FTA</b>	Federal Transit Administration	278
<b>MARAD</b>	Maritime Administration	134
<b>NHTSA</b>	National Highway Traffic Safety Administration	220
<b>OIG</b>	Office of the Inspector General	117
<b>OST</b>	Office of the Secretary of Transportation	345
<b>PHMSA</b>	Pipeline and Hazardous Materials Safety Administration	198
<b>RITA</b> <sup>2</sup>	Research and Innovative Technology Administration	27
<b>SLSDC</b>	Saint Lawrence Seaway Development Corporation	7

During FY 2013, DOT expended a total of 98 staff-years of effort on its FOIA program, which included 36 full-time FOIA staff. The additional 62 staff-years of effort includes part-time FOIA professionals, program office staff who searched for records, attorneys and managers who reviewed records, and administrative support staff time.

Many components, including FMCSA, FRA, FTA, MARAD, NHTSA, OIG, OST, PHMSA, and SLSDC, 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. The RITA's FOIA 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 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,

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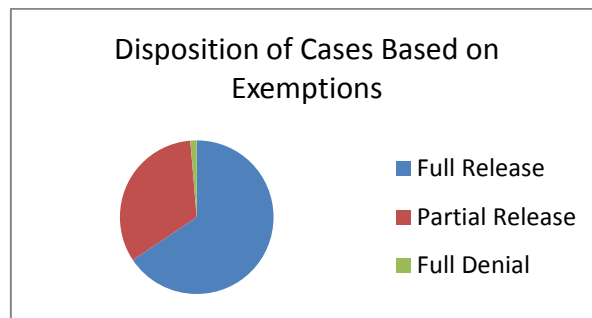
<sup>2</sup> The Consolidated Appropriations Act, 2014, Division L—Transportation, Housing and Urban Development and Related Agencies Appropriations Act, 2014, Pub. L. No. 113-76 (Jan. 17, 2014) included language transferring the previous functions of the Research and Innovative Technology Administration (RITA) to the newly formed Office of the Assistant Secretary for Research and Technology within the Office of the Secretary. Therefore, next year's report will not include RITA as a separate component.

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.

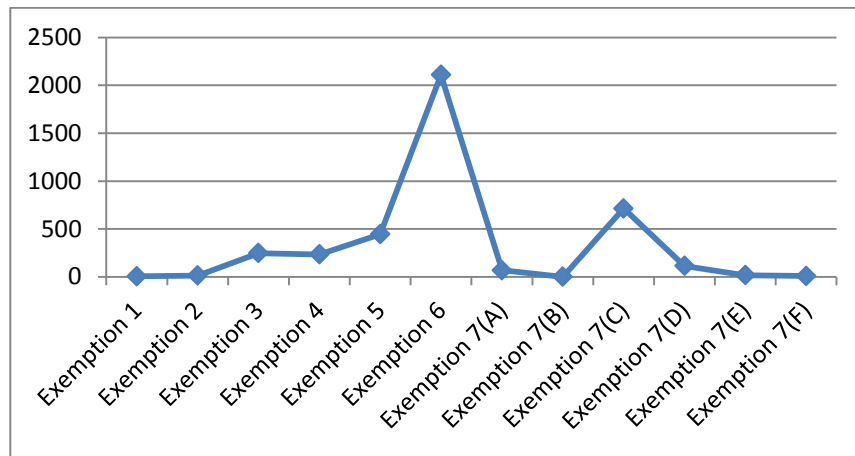
The DOT has a FOIA Public Liaison for each DOT component. FOIA requesters can raise concerns to the FOIA Public Liaisons about service they have received from the FOIA offices. The FOIA Public Liaisons report to the Chief FOIA Officer on their FOIA liaison-related activities.

### Overview of FY 2013 Data

During FY 2013, DOT received and processed over 10,000 FOIA requests. In 74 percent (or 7,581) of the 10,235 cases processed, records were located and a determination was made, based on exemptions, to fully release, partially release, or fully deny. The following chart shows that full or partial releases were made in 99 percent of those cases.

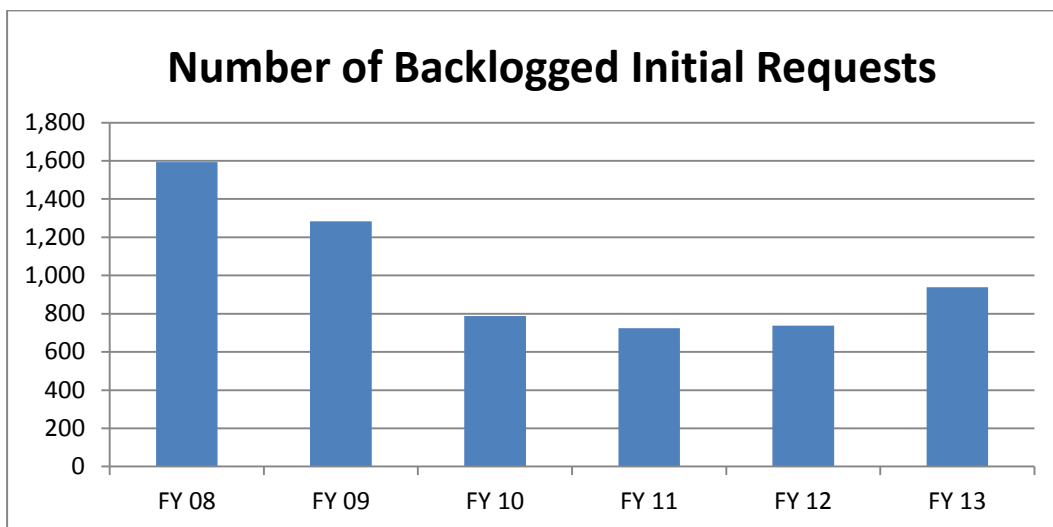


In those cases from the chart above where information was partially released (and partially denied) or fully denied, the chart below shows the number of times each exemption was applied. As the chart demonstrates, the FOIA exemptions most frequently invoked were Exemptions 6 and 7(C), both of which protect the personal privacy of individuals.



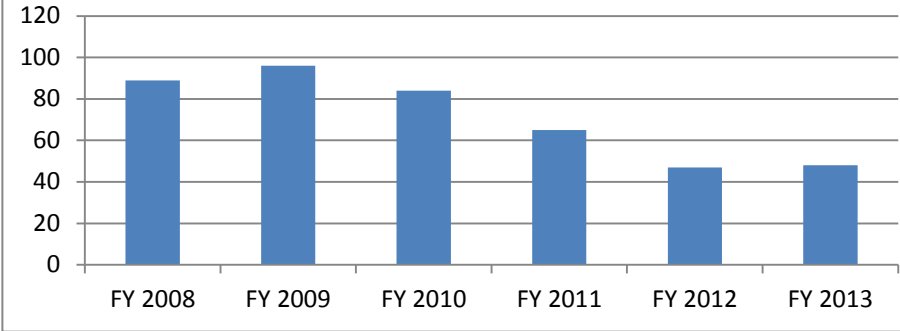
In 15 percent (1,589) of all cases processed, no records were located. Approximately half of those were requests for information from FAA’s airman database. Often, companies ask for enforcement histories and accident histories for pilots or mechanics they are considering hiring. A “no records” response indicates that the particular pilot or mechanic had no enforcement or accident history. Other requesters may seek air traffic control tapes. These are recycled after about 15 days, so if a FOIA request arrives asking for a tape past that time, FAA ordinarily would have no responsive records. The Department also receives requests for correspondence between DOT and a particular individual or company; often we have no responsive records.

Although DOT was unable to reduce its backlog of initial requests from FY 2012 to FY 2013, we note that since FY 2008, DOT’s backlog of initial requests has decreased by 41 percent.



DOT’s backlog of appeals increased by one appeal from FY 2012 to FY 2013; however, since FY 2008, DOT’s backlog of appeals has decreased by 46 percent.

# Number of Backlogged Appeals



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

The following are examples of steps that DOT has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA.

### ***FOIA Training Provided***

I briefed the incoming Chief of Staff and Deputy Chief of Staff on the FOIA in general, and our FOIA program at DOT, including a discussion on the presumption of openness. The Departmental FOIA Office held interactive monthly meetings with FOIA professionals and attorneys throughout the Department to provide guidance, address current FOIA issues, and share best practices, and the Assistant General Counsel for Operations presented a session on FOIA at a Department-wide training for new attorneys.

The FAA developed an on-line training module for employees responding to FOIA requests, which 123 employees completed during the reporting period. The FAA also conducted FOIA training for approximately 75 employees specifically related to records that are the subject of ongoing FOIA litigation. The FAA conducted FOIA training sessions for FOIA coordinators in both headquarters and the field, and a separate training session for attorneys.

The PHMSA provided on-line Basic Overview FOIA training to 28 new hires as part of its orientation program. The NHTSA and MARAD held training sessions on the basic and more advanced uses of its FOIA case management and document management information system. The FHWA conducted training on FOIA Exemption 5 for approximately 30 headquarters and field FOIA coordinators.

The OIG FOIA Team continued to host quarterly OIG FOIA lunch conferences for OIG FOIA offices throughout the Government.

### ***FOIA Training Received***

Although training money was significantly limited this year, DOT employees attended a wide variety of FOIA training, including formal training sponsored by DOJ and the Director's Series lectures, also sponsored by DOJ. Staff in several components took advantage of on-line training modules created by their respective components, as well as on-the-job and other FOIA training.

### ***Percentage of FOIA Professionals Trained***

We estimate that approximately 75 percent of DOT's FOIA professionals received substantive FOIA training during the reporting period. We plan to provide training to all of the Department's FOIA professionals by March 2015. We will accomplish this using a number of resources, including on-line training modules currently available in various DOT components, the anticipated new DOJ on-line training modules, videoconferences, webinars, classroom training, and on-the-job training. We also will conduct training sessions on different portions of the DOT FOIA regulations as part of our monthly DOT-wide FOIA meetings. As part of these monthly training sessions, we plan to post a hand-out on that month's topic on our "FOIA Workspace" SharePoint site. I have asked each DOT component to provide me, by March 31, 2014, a plan that explains how they will ensure that their FOIA professionals receive appropriate training by the end of calendar year 2014.

### ***Outreach***

During the reporting period, DOT FOIA professionals participated in requester roundtables sponsored by DOJ and OGIS. FOIA professionals throughout the Department, moreover, routinely have open dialogues with requesters who are not familiar with FOIA to provide assistance in getting them what they want, and routinely reach out to individual requesters to discuss their requests.

### ***Discretionary Disclosures***

The DOT encourages and supports the discretionary release of records. During the reporting period, the majority of DOT's components made discretionary releases of information otherwise exempt from disclosure under Exemptions 2 and 5. Before invoking Exemption 2 or 5, the DOT components' FOIA Offices, in consultation with their program offices, determine whether any of the information can be discretionarily released. Although we do not keep statistics of the number of discretionary releases we make, the number of times Exemptions 2 and 5 were used in FY 2013 declined significantly from previous fiscal years.

The DOT released many types of documents as a matter of discretion during the reporting period. For example, after conducting a harm analysis, most components released deliberative records, which in varying circumstances included e-mails, draft presentations, talking points, internal memos, draft reports, and draft letters. The OIG reported releasing records where Exemption 2 could apply.



### ***Other Initiatives***

As required by DOJ, DOT posted all of the required quarterly FOIA reports for Fiscal Year 2013.

During Sunshine Week, I sent a memorandum to all DOT employees that addressed general FOIA information, the presumption of openness, and each employee's role in the process. Also during Sunshine Week, the Departmental FOIA Officer posted an article on DOT's internal web page that discussed the Administration's FOIA policy and the role of each DOT employee, as well as highlighted the work of various FOIA professionals throughout the Department.

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

To ensure that the management of our FOIA program is effective and efficient, DOT has conducted reviews of the FOIA programs in each of the DOT components over the past several years and suggested improvements to the heads of those components. In our monthly DOT-wide FOIA meetings, we discuss best practices related to the FOIA processes. The following are other initiatives that are underway.

### ***Personnel***

DOT has converted approximately 20 percent of its FOIA professionals to the new Government Information Specialist job series. Each of the DOT components that have not already converted their personnel is actively working with its Human Resources offices to do so. I have asked the components, by March 31, 2014, to provide me with a plan that explains how they will accomplish converting any remaining positions to the GS-306 series by the end of calendar year 2014.

### ***Processing Procedures***

For Fiscal Year 2013, DOT maintained an average of slightly more than 1 calendar day to adjudicate requests for expedited processing.

During the reporting period, DOT did not take any steps to make the handling of consultations and referrals more efficient and effective. During calendar year 2014, a team of FOIA professionals from various DOT components will assess whether there are steps or procedures we could take to streamline the consultation and referral processes in one or more components.

### ***Requester Services***

All DOT components use e-mail to communicate with requesters to varying degrees. The e-mail communication ranges from answering questions via e-mail (the majority of components), sending acknowledgement letters (several components), and e-mailing responses (the majority of components). However, we recognize that there are opportunities for improvement and consistency among the components. During calendar year 2014, each component will assess its use of e-mail communication with requesters to determine if further use is appropriate. This will be a topic of a future monthly meeting, and best practices from the components will be discussed and encouraged for implementation.

The DOT notifies requesters of the mediation services offered by OGIS in its online [FOIA Reference Guide](#) and also links directly to OGIS from its FOIA home page. At DOT, the Appeals Official in each component is the head of the component or one his/her direct reports. All appeal responses are coordinated with attorneys in the component. These attorneys consider the interests of the requester and scrutinize whether additional information should be disclosed under the Attorney General's guidelines. In instances where the component is continuing to withhold any portion of a record under any exemption, or if records still could not be located, then the DOT General Counsel's concurrence is required. The General Counsel has delegated concurrence authority to the attorneys on her staff who specialize in FOIA legal matters. The Office of General Counsel's review focuses on whether the component can support all proposed withholdings under FOIA exemptions, and whether it is appropriately releasing records on a discretionary basis. Following this rigorous appeals process, which culminates in DOT final agency action, we do not provide the notice of mediation services in our responses to individual appeals. As previously mentioned, however, we notify requesters of the availability of OGIS' services in our online FOIA Reference Guide, and we welcome OGIS' involvement, particularly in instances of delay. We appreciate the value of OGIS' services, and use them often.

The DOT components have taken steps to ensure that the FOIA systems at DOT operate efficiently and effectively. All DOT components routinely set goals and monitor the progress of their respective FOIA caseloads. In addition, the FAA formed a workgroup to study FOIA implementation in its regional offices and provided proposed improvements to management. The FAA also has included implementation of FOIA best practices into its Strategic Plan. Finally, the FAA developed a specific subject area within the electronic training system to organize FOIA-related courses.

The FHWA made upgrades to its FOIA database and architecture, which improved response time for FHWA and other DOT components using the system. The system is managed by FHWA and used by eight DOT components for tracking FOIA requests. The server team used performance monitoring products to help make sure that communication between the application and users was as fast and secure as possible. Another component, MARAD, increased the use of the features available in its commercial off-the-shelf FOIA solution and purchased new software features for the same solution.

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

The DOT has taken steps both to increase the amount of material that is available on our website and the usability of that information.

#### ***Posting Material***

The Department regularly contributes proactive releases through [www.data.gov](http://www.data.gov). In addition, when FOIA offices see areas of interest based on the nature of FOIA requests received, they reach out to the respective program offices to let them know of the heightened interest, so the program office can consider posting the records. There are formal posting systems in place in various program and public affairs offices throughout the Department. The following is an example from just one of the components:

FTA posts high-value information on the agency's public website on the day of, or shortly in advance of, a key milestone, before the public or the agency's stakeholders would be aware of the news or information. This approach ensures that affected and interested parties have ample time to act on the information FTA is sharing. For example, on a consistent basis, FTA uploads high priority information on newly published Federal Register notices (including, importantly, notices of funding availability and notices of funding awards); proposed rulemakings requesting public comments; information on annual appropriations and illustrative apportionments; updates to major capital investment transit projects; and instructional webinars and webcasts.

#### ***Examples of Posted Information***

The DOT has posted a great deal of information on-line. Following are just a few examples of material that DOT has posted during this past reporting period, including embedded hyperlinks to the material on-line.

Within the [main DOT briefing room](#), we have posted [press releases](#), regular [blog posts by the Secretary of Transportation](#), [speeches](#), [photos](#), and [videos](#). The main DOT briefing room also contains [links to each component's briefing room](#).

The FAA posted information on [laser strike incidents](#) and continued to post all [air traffic audio tapes](#) that were released through FOIA because there is generally broad interest in the tapes. The FHWA continued posting information on its [MAP-21 website](#), which provides information on the long-term surface transportation funding program “Moving Ahead for Progress in the 21<sup>st</sup> Century Act.”

The NHTSA posted more than 60 traffic safety focused [reports](#), [research notes](#), [Crash\\*Stats](#), [Traffic Safety Fact Sheets](#), and [Traffic Techs](#), as well as comprehensive nationwide [annual fatality data](#); [county-by-county breakdown of traffic safety facts](#); and [behavioral studies and reports](#) organized by safety topics. The NHTSA also frequently updated the [breakdown of CAFE-related fines](#) and [civil penalty settlement amounts](#); reports on the percentage of [U.S./Canadian parts content](#) for every passenger vehicle sold in the U.S.; and a searchable repository of [legal interpretation letters](#).

The OST continued to add content to its Transportation Investment Generating Economic Recovery ([TIGER](#)) [discretionary grant program web page](#); FMCSA posted [Mexican carrier applications](#) as they were received; and RITA posted VOLPE National Transportation Systems Center [contracts](#).

The PHMSA posted [Monthly Pipeline Statistics](#), [Hazmat Interpretation Letters](#), Standards and Rulemakings for [Hazardous Materials](#) and [Pipelines](#), and [Enforcement Documents](#), and the FTA posted information regarding the [Emergency Relief Program/Hurricane Sandy Disaster Aid](#).

The SLSDC posted its [Seaway “Compass” newsletters](#), released internationally, that highlight ongoing and significant events and initiatives affecting marine commerce on the Great Lakes-St. Lawrence Seaway, and the OIG posted [audit reports](#); [new audit announcements](#); [investigative summaries](#); information regarding [wanted fugitives](#); [Congressional testimony](#); and [official correspondence](#).

### ***Making Posted Material More Useful***

Beyond posting new material, the following are a few examples of steps that DOT is taking to make the posted information more useful to the public, especially to the community of individuals who regularly access DOT’s website.

To increase the usefulness of content and allow the highest level of access, the FAA recently optimized News, Events and Press Releases for small screen/mobile devices. The FAA also ensures its content meets industry standards and provides feedback systems across [faa.gov](http://faa.gov) for desktop and mobile users and consistently receives feedback from its users. The FAA's efforts in search function improvement are based on feedback and data sent to FAA directly from users and are continual and iterative.

The FRA provides an [eLibrary](#) on its home page that contains all the documents that are found throughout the FRA public website. The eLibrary can be navigated by date, subject, or type of document (e.g., accident investigation, press release, report). The FRA also provides a video tutorial on the eLibrary page on how to effectively navigate the eLibrary.

The FTA has a robust stakeholder outreach process in place for communicating in a timely manner on official announcements, regulatory matters, events, webinars and webcasts, and other matters. The FTA routinely uses the web GovDelivery system, which comprise about 30,000 unique subscribers, to share news on various transit-related topics with interested individuals who subscribe to any of dozens of topics. The FTA also maintains and updates a calendar on the website's homepage, which lists upcoming conferences, training opportunities, etc. Most of the feedback FTA receives on posted information is internally driven; and the FTA communications office is responsive to suggestions for formatting, updating, and presenting a wide range of content. With respect to search capabilities, FTA recently made a significant improvement to the searchability of its press releases, which are a rich source of information, so that it is now easier to search for specific content contained in a release.

The NHTSA continuously measures and analyzes web metrics to enhance site performance, usability, search functions, engagement, satisfaction, and effectiveness of digital communications. The NHTSA receives daily feedback from visitors using site surveys to measure satisfaction and to identify specific ways to enhance user experience on issues like navigation, layout, engagement, content, and search functions. Based on visitor feedback, the function to compare 5-Star Safety Ratings by specific vehicles and classes was added to [SaferCar.gov](#). Recently, a new car seat sizing chart was added to [SaferCar.gov](#), a feature parents cited in its surveys as a highly desired capability. Another analysis of NHTSA's metrics showed visitors seeking information on recalls, how to file a complaint, and car seats had difficulty finding the related links on the NHTSA.gov and SaferCar.gov home pages. The NHTSA added easier-to-scan icons to the top right area of the sites with plain language labels to increase visibility and accessibility of the information.

The FMCSA uses its [Facebook page](#) to solicit and monitor comments and feedback. In addition, FMCSA has created the [SaferBus](#) mobile application, which helps the public select safe bus carriers in a mobile format. The OIG also maintains a mobile-friendly web site and is in the process of making additional improvements to the search features on the public web site.

The PHMSA is in the process of reorganizing and improving its website. This past year, new design templates were implemented on all of the front landing pages of the site to provide a layout that is easy for our users to find information. In addition, points of contact have been put in place to work with the different PHMSA program offices to update and reorganize content. A short term web marketing contract has also been put in place to assist with improving the architectural/navigational structure of the site and to produce an architectural roadmap to make it a more dynamic and user friendly site. The PHMSA also continued to provide its content owners with reports that show the level of continuing interest in their content and flag outdated content for archival or deletion using a web analytics tool.

To make SLSDC-specific information more readily available and easier to find, SLSDC is working to develop a Seaway web presence. Unlike [www.greatlakes-seaway.com](http://www.greatlakes-seaway.com), which is trade-specific and a shared resource with the Canadian St. Lawrence Seaway Management Corporation, the new website will exclusively feature SLSDC-specific content. Using an open source content management framework, the SLSDC content will be more search-friendly and compatible with mobile devices. The SLSDC is also in the process of rebranding its Seaway “Compass” newsletter to modernize the presentation of posted material.

The FHWA’s many program and division offices take steps to make it easier for the public to comment on proposed Federal rules, environmental reviews, and project design. The FHWA’s public affairs team has spent years helping to organize the layout of the agency’s website, and to ensure consistency among its many program websites and documents, so the public will find information more easily.

### ***Publicizing Proactive Disclosures***

Many components reported publicizing important proactive disclosures for public awareness, including through various [DOT social media](#) outlets.

Recently, social media was used to highlight FAA's decisions on the use of personal electronic devices (PEDs) as well as the selection of the six Unmanned Aerial Systems (UAS) test site operators. Social media drove 50 percent of web traffic to the PED news release on the first day. With over 9,200 mentions and a potential reach of 113 million in the social audience in just the first 24 hours, it created the most discussion of FAA news release on social media platforms. Similarly, social media yielded good results during the UAS test site operator announcement; with over 6,000 mentions and a potential reach of 30 million in the first 24 hours, social media drove 20% of the web traffic to the UAS test site operator press release. In addition, the UAS Roadmap announcement had 1,330 mentions and a potential reach of 21 million in the first 24 hours after release.

The NHTSA sends emails to readers who have asked via a site-wide subscription process to receive news and information on specific topics or subjects. In addition to traditional press releases, events and press calls, NHTSA employs [Facebook](#) and [Twitter](#) to further the reach of its messages. Every press release, consumer advisory, and safety recall is posted to Facebook and Twitter. Many other components also reported using Facebook and/or Twitter to announce releases. The heads of components also contributed guest blogs to the Transportation Secretary's [Fast Lane Blog](#).

### ***Challenges Encountered***

All DOT components actively make proactive disclosures on their respective web pages. Several components indicated that their main challenge is making large amounts of information 508 compliant.



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

In addition to using the Internet to make proactive disclosures, DOT is exploring ways to use technology in responding to requests.

### ***On-line tracking of FOIA requests***

The DOT does not currently offer on-line tracking of FOIA requests. Each component has a FOIA Requester Service Center that requesters can call to obtain the status of requests. During calendar year 2014, DOT will be evaluating a number of FOIA management systems – both Government-operated and commercial off-the-shelf products – to determine if there are efficiencies to be gained by having another FOIA solution might enhance the experience for both the DOT FOIA professionals (processing) and requesters (on-line status). The evaluation will include determining DOT's needs, as well as benefits to the requester community, and whether there is a solution that meets those needs.

### ***Use of technology to facilitate processing of requests***

Beyond using technology to redact documents, DOT is taking steps to utilize more advanced technology to facilitate overall FOIA efficiency. Following are some examples.

During the reporting period, NHTSA invested significant resources to obtain FOIA case management and document management software that has the potential to increase efficiency by reducing response time and sharing platforms. The NHTSA also invested resources to obtain software that can sort and de-duplicate documents. In addition, NHTSA, along with several other components, uses shared platforms for intra-agency records transfers.

The OST purchased an e-discovery management tool that will be used by the FOIA team. The PHMSA uses the Secure File Transfer Protocol (SFTP) to provide requesters immediate access to large files of records. The PHMSA is also evaluating de-duplicating software being used by other DOT components. The MARAD is adding a de-duplicating module to its commercial off-the-shelf FOIA solution, and the FMCSA FOIA Team is researching how SharePoint can be used to enhance the effectiveness of the FOIA team.

### ***Future Technology Tools***

Several DOT components reported that they would like to have a FOIA solution that does more than tracks requests, but also helps with the electronic processing of requests. Also, the DOT components that are not already using e-discovery tools and de-duplicating tools would benefit from the use of that technology.

## **Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing 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.

### ***Simple Track Requests***

All DOT components use a separate track for simple requests. During FY 2013, the average number of days to process simple requests was 24.88 days. In reviewing this data with the components, we discovered that a number of cases had been miscategorized and placed in the wrong track. The Departmental FOIA Officer will work directly with relevant components during FY 2014 to ensure that going forward, requests are placed in the appropriate category.

### ***Backlogs and “Ten Oldest” Requests, Appeals, and Consultations***

#### Backlogs

Our backlog of pending requests did not decrease from the end of Fiscal Year 2012 to the end of Fiscal Year 2013.

Our backlog of pending administrative appeals decreased from the end of Fiscal Year 2012 to the end of Fiscal Year 2013.

#### Ten Oldest Requests

In Fiscal Year 2013, we did not close all of the ten oldest requests that were pending as of the end of Fiscal Year 2012. As of September 30, 2013, eight of the ten oldest requests were closed.

#### Ten Oldest Appeals

In Fiscal Year 2013, we closed the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2012.

## Ten Oldest Consultations

In Fiscal Year 2013, we did not close all of the ten oldest consultations received. As of September 30, 2013, two of the three pending consultations were closed.

### ***Reasons for Backlogs***

#### Request Backlog

The lack of a reduction in the initial request backlog is the result of an increase in the number (several components) and complexity (several components) of incoming requests and appeals.

#### “Ten oldest” Not Closed

Two of the ten oldest requests were not closed. This was primarily due to competing workloads in the program office and the diversion of FOIA program staff to FOIA litigation matters. Pending consultations with other agencies did not contribute to our inability to close the two cases by the end of the fiscal year.

#### “Ten Oldest” Consultations Not Closed

The primary reason that one of the ten oldest consultations was not closed was that FOIA program staff were diverted to work on FOIA litigation matters.

### ***Plans for Closing of Ten Oldest Pending Requests, Appeals, and Consultations and Reducing Backlogs***

Although DOT closed its ten oldest appeals, we were not able to close our ten oldest pending requests or consultations during FY 2013.

The components understand the high priority of closing the oldest cases and are focusing their attention on them. This topic, including best practices from the components, has been and will continue to be discussed in our monthly meetings. I have asked each components to send me a list, by March 31, 2014, of any of its ten oldest requests, appeals, and consultations that are still open, along with a plan to close them by the end of the fiscal year.

The DOT did not have a backlog of more than 1,000 pending cases.

## ***Interim Responses***

The majority of DOT components use interim responses to get documents to requesters on a rolling basis. The components determine whether interim responses are appropriate on a case-by-case basis. In addition, FAA uses interim releases on a regular basis. When FAA receives a FOIA request, often the request is assigned to multiple FAA offices for action. As each office completes its work, it sends a response and responsive documents to the requester. The request is not closed out in the database until the last office responds. This way, requesters routinely receive documents on a rolling basis from FAA.

We estimate that requesters in approximately 100 (or 10 percent) of our backlogged cases have received a substantive, interim response.

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

During FY 2013, the OIG invoked a FOIA law enforcement exclusion one time.

### **Spotlights on Success**

The FAA had a best practice-worthy well-balanced approach to its FOIA training during the reporting period by using both on-line and in-person training. The FAA developed an on-line FOIA training module for FAA employees who process FOIA requests. During the reporting period, over 120 employees completed the training. The FAA also developed a specific subject area within the electronic learning environment to organize FOIA-related courses, which will make it easier for FAA employees who want or need to learn more about various aspects of the FOIA. The FAA also provided hands-on training to various groups throughout FAA.

The NHTSA has excelled in making proactive disclosures of information to the public in a user-friendly way on its website. The NHTSA posted many traffic safety focused [reports](#), [research notes](#), [Crash\\*Stats](#), [Traffic Safety Fact Sheets](#), and [Traffic Techs](#), as well as comprehensive nationwide [annual fatality data](#); [county-by-county breakdown of traffic safety facts](#); and [behavioral studies and reports](#) organized by safety topics. The NHTSA also frequently updated the breakdown of [civil penalty settlement amounts](#); reports on the percentage of [U.S./Canadian parts content](#) for every passenger vehicle sold in the U.S.; and a searchable repository of [legal interpretation letters](#).