

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



## **Chief FOIA Officer Report**

March 2015

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# 2015 Chief FOIA Officer Report

## U.S. Department of Transportation

I am pleased to show in this sixth 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 2014 to March 2015. Statistical information related to backlogs is based on data from DOT's FY 2014 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 I 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 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 and respond to FOIA requests,<sup>1</sup> along with the number of requests each received in FY 2014:

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2014
<b>FAA</b>	Federal Aviation Administration	8,131
<b>FHWA</b>	Federal Highway Administration	438

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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 2014
<b>FMCSA</b>	Federal Motor Carrier Safety Administration	1,815
<b>FRA</b>	Federal Railroad Administration	412
<b>FTA</b>	Federal Transit Administration	252
<b>MARAD</b>	Maritime Administration	71
<b>NHTSA</b>	National Highway Traffic Safety Administration	269
<b>OIG</b>	Office of the Inspector General	114
<b>OST</b>	Office of the Secretary of Transportation	334
<b>PHMSA</b>	Pipeline and Hazardous Materials Safety Administration	165
<b>SLSDC</b>	Saint Lawrence Seaway Development Corporation	11

During FY 2014, DOT expended a total of 85.77 staff-years of effort on its FOIA program, which included the work of 33 full-time FOIA staff. The additional 52.77 staff-years of effort includes part-time FOIA professionals, contractors who worked full-time for less than the full year, program office staff who searched for records, attorneys and managers who reviewed records, and administrative support staff time.

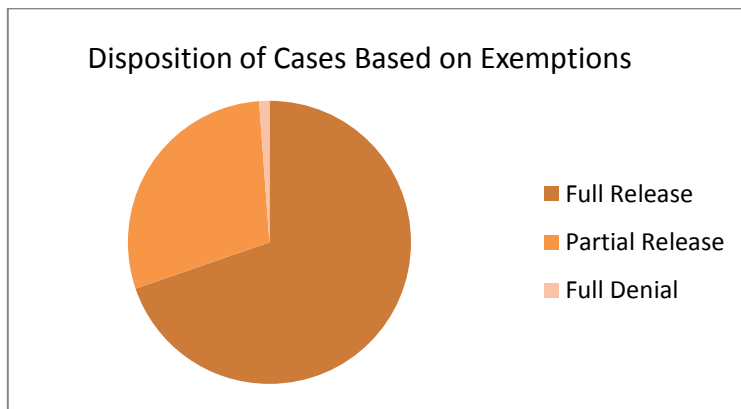
Many components, including FMCSA, FRA, FTA, MARAD, NHTSA, OIG, PHMSA, and SLSDC, have centralized programs, where FOIA activities are conducted by a single FOIA office. These centralized FOIA offices obtain records from their various program offices, review the documents, and make determinations regarding release of the documents. The OST's FOIA activities are primarily handled by the headquarters FOIA office; however, one field office (Volpe National Transportation Systems Center in Cambridge, Massachusetts), responds directly to FOIA requests for its 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 releasability determinations. Even in these decentralized programs, there is an office at headquarters that oversees the implementation of the FOIA.

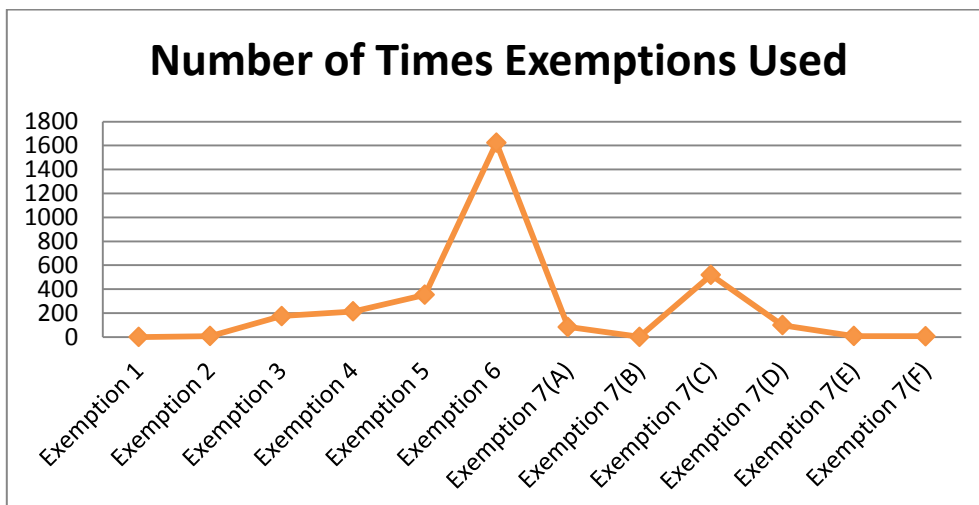
The DOT has a FOIA Public Liaison for each DOT component. FOIA requesters can raise concerns to the FOIA Public Liaisons about service they have received from the FOIA offices. The FOIA Public Liaisons report to the Chief FOIA Officer on their FOIA liaison-related activities.

### Overview of FY 2014 Data

During FY 2014, DOT processed 11,213 FOIA requests. In over 75 percent (or 8,492) of the 11,213 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.

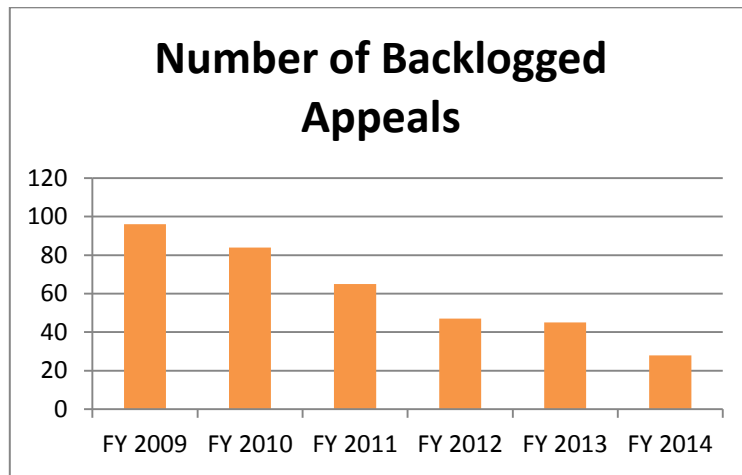


In those cases where information was partially released (and partially denied) or fully denied, the chart below shows the number of times each exemption was applied. As the chart demonstrates, the FOIA exemptions most frequently invoked were Exemptions 6 and 7(C), both of which protect the personal privacy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



In 14 percent (1,593) of the 11,213 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 for which we sometimes have no responsive records.

We are particularly proud of the fact that our backlog of appeals has continued to decrease over the past several years. At the end of FY 2014, we had only 28 backlogged appeals. This represents a decrease of 70 percent in our backlog since FY 2009, and a 37 percent decrease achieved in FY 2014.



### **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 FOIA and that DOT FOIA professionals are appropriately trained.

### *FOIA Training Provided*

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. In particular, after we issued our updated FOIA regulations on March 25, 2014, we highlighted a particular topic from the regulations each month to enhance awareness of new aspects to our FOIA procedures and provide guidance.

In March 2015, DOT and the U.S. Health and Human Services Administration (HHS) co-sponsored a full-day joint training session, “Conflict Resolution Skills for FOIA Professionals.” Alternative dispute resolution (ADR) skills were taught to FOIA professionals by ADR professionals, using examples taken from real-life FOIA situations, to enhance our ability to communicate effectively with FOIA requesters and provide better service.

During the reporting period, DOT sponsored a “viewing party” for approximately 25 FOIA and Privacy Act professionals of a webinar created by the American Society of Access Professionals (ASAP) on the interaction between FOIA and the Privacy Act. DOT subject matter experts were on hand to lead the discussion and answer questions. The OIG also hosted similar training as an in-person session for the OIG’s Office of Legal, Legislative and External Affairs.

In PHMSA, training was provided to all new attorneys. Topics covered included a general overview and a more in-depth review of the exemptions that PHMSA typically applies. PHMSA also provided all-employee training covering the following topics: general overview, employee responsibilities, and exemption overview.

The FAA provides online basic training on an ongoing basis that serves as an introduction to the FOIA process and explanations of the exemptions. Advanced training was provided to various program offices based on their need and the different exemptions used by each office.

In its decentralized program, FHWA provided one-on-one training to new FOIA points of contact in various headquarters program offices. In addition, the FHWA headquarters FOIA specialist provided a 90-minute in-person “Introduction to FOIA” training for 24 people at headquarters. The same training, which in addition to covering basic FOIA topics covered FHWA-specific issues, was provided via webinar to 73 FHWA employees, mostly in field offices.

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

At the beginning of the reporting period, each DOT component provided me with a plan for ensuring that substantive FOIA training was offered to each of their FOIA professionals at least once a year. These plans, coupled with training sponsored by the Office of the Secretary, helped us achieve the goal of training all DOT FOIA professionals.

The DOT employees attended a wide variety of FOIA training sessions. This included formal training sponsored by the U.S. Department of Justice's (DOJ) Office of Information Policy (OIP), such as "FOIA for Attorneys and Access Professionals," "FOIA Litigation Seminar," and "Advanced FOIA Seminar." DOT staff also attended a 3-day FOIA and Privacy Act training provided by the USDA Graduate School.

Several FOIA professionals attended the Annual National Training Conference sponsored by ASAP, as well as ASAP-sponsored luncheon seminars.

Representatives from DOT participated in the DOJ OIP Best Practices Workshops related to (1) reducing backlogs and increasing timeliness and (2) implementing information technology to improve FOIA processing.

Staff in several components took advantage of on-line training modules created by their respective components.

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

Using the various methods described above, and implementation of our training plan described below, 100 percent of DOT's FOIA professionals received substantive FOIA training during this reporting period.

### ***Implementation of Training Plan***

The DOT's training plan included using a number of resources to accomplish the training, such as on-line training modules currently available in various DOT components, videoconferences, webinars, classroom training, and on-the-job training. Also, our plan included conducting training sessions on different portions of the DOT FOIA regulations as part of our monthly DOT-wide FOIA meetings. Finally, I asked each DOT component to provide me with a plan for ensuring that all of

its FOIA professionals received appropriate training by March 2015. By using a variety of training methods, and receiving and monitoring training plans from the components, implementation of our plan was successful.

### *Outreach*

Representatives from DOT attended a DOJ-sponsored Workshop for FOIA professionals and the FOIA requester community . The purpose of the workshop was to discuss best practices from the FOIA requester community perspective. The information discussed at the workshop was passed along to other DOT FOIA professionals at one of our monthly DOT-wide FOIA meetings.

### *Discretionary Disclosures*

The DOT encourages and supports the discretionary release of records. While DOT does not have a formal DOT-wide system in place to review records for discretionary release, the components have various practices related to reviewing records to determine whether all appropriate discretionary releases are made. As a result, during the reporting period, the majority of DOT's components made discretionary releases of information otherwise exempt from disclosure – primarily under Exemption 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 2014 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, internal memos, and various draft documents, such as presentations, talking points, reports, letters, and agreements. In addition, FAA and OIG reported releasing records where Exemption 2 could apply.

### *Other Initiatives*

In several components, as part of new employee orientation, all new hires were advised concerning their responsibilities as federal employees under FOIA. We are exploring making this a DOT-wide requirement.



The FHWA provided training to many managers and FOIA points of contact for which FOIA is a collateral duty. In addition, FHWA is in the process of updating its internal FOIA webpage, which provides assistance to FHWA employees with questions about their FOIA obligations.

At the SLSDC, the Chief Counsel periodically reminds headquarters and field staff of FOIA requirements at staff meetings.

We continued our tradition of posting an article on DOT's internal web page during Sunshine Week to highlight DOT's FOIA program. The article 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, I initiated an annual FOIA work plan for calendar year 2014. The annual plan, which is developed each year in coordination with the Departmental FOIA Office, identifies a series of objectives for our DOT FOIA program. The objectives are designed to provide more efficient and user-friendly service to FOIA requesters and improve the overall management of DOT's FOIA program. I personally oversee progress on the work plan.

In our monthly DOT-wide FOIA meetings, we discuss best practices related to FOIA processes, as well as progress related to the work plan. The following are other initiatives that are underway.

### ***Personnel***

There are 30 FOIA professionals throughout DOT who may meet the criteria for the GS-306 series. Eighteen (or 60 percent) of the 30 positions have been formally converted to the GS-306 series. Of the remaining 12 positions, 8 are FAA positions and 4 are positions in non-FAA components. The 4 positions in the non-FAA components are actively working with their Human

Resources offices to get the positions converted. We anticipate this will be completed by June 30, 2015.

The DOT's largest component, FAA, is not under Title 5 of the United States Code; however, FAA adopted the new series into its system during the reporting system. FAA identified 18 FOIA professional positions as potentially meeting the criteria, and 10 have been converted. The remaining 8 positions will be reviewed by FAA and converted as appropriate.

### ***Processing Procedures***

For FY 2014, DOT maintained an average of slightly more than 2 calendar days to adjudicate requests for expedited processing.

The Departmental FOIA Office often receives FOIA requests that need to be routed to one or more of its components. The DOT made this process more efficient and effective during this reporting period by instituting a practice of sending all referrals and consultations to the DOT components via e-mail, rather than inter-office mail.

### ***Requester Services***

The DOT notifies requesters of the mediation services offered by the Office of Government Information Services (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 of 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 law and 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. This rigorous appeals process culminates in DOT's final agency action. We do not provide notice of mediation services in our responses to individual appeals. 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.

When assessing fees to requesters, DOT provides a breakdown, either in the response letter or an invoice, of how FOIA fees were calculated. Estimates are provided in cases where fees exceed what the requester has agreed to pay. If estimated fees are particularly high, DOT provides an explanation for the high estimate. For example, the requester will be notified that the request will require searches of numerous custodians' e-mail files or multiple field offices. This approach is consistent throughout DOT.

### *Other Initiatives*

In addition to the initiatives described above, DOT components have taken other steps to improve the effectiveness of the FOIA program. For example, PHMSA increased efficiency during the reporting period by routinely reviewing records electronically and eliminating nearly all paper review.

The FHWA restructured its appeals processing procedures to decrease its appeals backlog. It changed the process by which attorneys are assigned (or sometimes reassigned) to review appeals, implemented new procedures to obtain the records at an earlier time in the processing of the appeal, and added appeal tracking requirements. The FHWA also has reallocated duties of personnel working in the FHWA FOIA office to delegate more of the administrative tasks to a more junior team member, offering that valuable team member more responsibility, while permitting the more experienced members of the team to focus on managing FHWA's decentralized program. Finally, the FHWA FOIA Office clarified the procedures for coordinating responses to initial FOIA requests when more than one FHWA office needs to search for responsive records. These initiatives all have helped FHWA to make significant progress in reducing its backlogs for both initial requests and appeals.

The FHWA also has recently focused on improving communication with requesters on appeal. Specifically, the attorney or paralegal assigned to process the appeal communicates with the requester to provide contact information and information about the place of the appeal in the FOIA appeal queue, and to provide an estimated date of completion. This initiative has improved FHWA's relationship with requesters on appeal.

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

All DOT components make proactive disclosures on their respective web pages. The DOT has taken steps to increase the amount of material available on our website.

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

Although some DOT components have processes in place to identify records for proactive disclosure, there is not yet a consistent, formal approach across DOT. During the upcoming reporting period, we expect to enhance our proactive disclosures. As described below under “Other Initiatives,” DOT is working to develop a consistent, routinized process for posting records DOT-wide using cross-functional teams.

As one example, NHTSA routinely discloses records related to defect investigations, recalls, safety traffic data, vehicle tests, research reports, and grant administration data, outside of the FOIA process. Also, the Department continues to regularly contribute proactive releases through [www.data.gov](http://www.data.gov).

Each DOT component monitors its FOIA logs to identify “frequently requested” records that must be posted online. 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.

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

The DOT has proactively 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.

DOT’s components all proactively post information about high-visibility/high-impact programs on their main page and/or program pages. 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 and to featured DOT social media sites](#).

The FAA posted information regarding [Unmanned Aircraft Systems](#) and continued to post all [air traffic audio tapes](#) that were released through FOIA, as 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 under the “Moving Ahead for Progress in the 21<sup>st</sup> Century Act.” The FTA added content to its [archive of Apportionment, Allocations, and Program Information](#).

The OST continued to add content to its Transportation Investment Generating Economic Recovery ([TIGER discretionary grant program web page](#)), including spreadsheets listing all applications since 2009 and an interactive map. The FMCSA updated its [“Company Safety Records” website](#), which clearly explains how to access valuable safety-related information about carriers.

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. The OIG posted [audit reports](#); [new audit announcements](#); [investigative summaries](#); and information regarding [wanted fugitives](#).

### *Other Initiatives*

In June 2014, DOT published its third Open Government Plan (3.0). This plan stated that DOT is fully committed to the proactive disclosure of information, consistent with the President’s and the Attorney General’s instruction to disclose information to achieve “an unprecedented level of openness.” The plan directs the Department to issue guidance requiring a proactive disclosure review by each Operating Administration. In October 2014, the White House Open Government Team and the DOJ’s OIP co-hosted a proactive disclosure workshop, bringing together a diverse set of government personnel to discuss how agencies can improve their processes for proactively providing information to the public. The DOT participated in that workshop and gained valuable insights. The event brought together various personnel from agency FOIA, open data, and communications offices to discuss their roles in their agencies’ proactive disclosure processes and how they can further improve such processes through collaboration.

We recognize the benefits of the collaborative approach and replicated that approach at DOT. We are aware that DOT already makes a great deal of information available on its websites

and that a great deal of excellent work was already being done in this area. We wanted to build on this work throughout DOT. To do so, DOT's Chief Data Officer and Departmental FOIA Officer formed a cross-modal, cross-functional group to help inform the Open Government Plan guidance mentioned above. We sought input from those whose jobs can have a positive impact in effectively increasing proactive disclosures throughout DOT. Participants included experts in the areas of Public Affairs, Open Government, FOIA, Records, Web, Communications, and Data. Our goal is to be more systematic in the area of proactive disclosures, and we believe this collaboration is key.

All DOT components will develop implementation plans based on the guidance, which will include cross-functional collaboration within the component. We look forward to discussing our successes in this area in next year's report.

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

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

##### ***Online Tracking of FOIA Requests and Appeals***

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 the reporting period, DOT evaluated 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 a FOIA solution that might enhance the experience for both DOT FOIA professionals (processing) and requesters (on-line status). The results of our evaluation are outlined at the end of this section under “Other Initiatives.”

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

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

The FRA uses robust eLibrary functionality to catalog documents and data available on its website, making information easier to find. A short tutorial video is provided on the site.

Several components reported listening to various demand signals, using web analytics, to determine what people are clicking and search terms being used, to target what additional information to post and/or make easier to find.

During the reporting period, the Departmental FOIA Officer regularly interacted with DOT's Chief Data Officer regarding issues such as Open Government, Data.gov, and FOIA logs. Also, as part of the Department's Open Government initiative on Proactive Disclosures, DOT's FOIA professionals are interacting with information technology, public affairs, records, and data professionals to identify additional records and new ways to post agency information online.

Many components reported publicizing important proactive disclosures for public awareness, including through various [DOT social media](#) outlets. Several components send e-mails 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, many DOT components employ [Facebook](#), [Twitter](#), and [YouTube](#) to further the reach of their messages. The heads of components also contributed guest blogs to the Transportation Secretary's [Fast Lane Blog](#).

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.

### ***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.

The OST has implemented use of an e-discovery management tool to help manage complex searches and process records for several large FOIA requests; NHTSA made a significant investment to assist in improving record search capabilities; and FMCSA is making efforts to use SharePoint more for FOIA processing.

The PHMSA continued to use the Secure File Transfer Protocol (SFTP) to provide requesters immediate access to large files of records. The PHMSA also increased efficiency by obtaining a software program and new hardware to help process FOIA requests.

The FHWA is participating in the development of a new FOIA tracking system, which will improve tracking and reporting and ease of use. The new database will use current technology, and will provide enhanced tracking, searching, and reporting capabilities.

Several DOT components that are not already using e-discovery tools, including review platforms and de-duplicating tools, have expressed an interest in exploring these technologies. We are working with these components to facilitate the implementation of this technology.

### *Other Initiatives*

As required by DOJ, DOT successfully posted all of the required quarterly FOIA reports for FY 2014.

All DOT components use e-mail to communicate with requesters to varying degrees, including acknowledgement letters, interim and final letters, and other communication with requesters. We recognized that there were opportunities for improvement and consistency among the components. During the reporting period, we assessed electronic communication with requesters throughout DOT and determined that e-mail should be used as the default means of communicating with requesters, whenever practicable. This was discussed in a DOT-wide monthly FOIA meeting, and best practices from the components will continue to be discussed and encouraged.

### Results of DOT's Review of FOIA Solutions

As background, DOT's eleven components are currently using five different systems that provide varying levels of tracking and processing of FOIA requests. All of the FOIA tracking systems, described below, track requests and support reporting for the FOIA Annual Report, as well as help the Department in responding to requesters regarding the status of their requests. The FAA uses a web-based program developed and maintained by the FAA's Enterprise Service Center to monitor the status of FOIA requests and appeals. Six other DOT components (OST, FHWA, FMCSA, FTA, OIG, and PHMSA) use a system developed, owned, and managed in-house by the



FHWA. MARAD and NHTSA use a commercial, off-the-shelf product for tracking, processing, and managing FOIA requests, which is provided through a contract. The FRA uses its internal correspondence tracking system to track its requests, and SLSDC tracks its low volume of requests in an Excel spreadsheet.

In May 2014, DOT issued a Request for Information (RFI) in FedBizOps to explore options for enhancing the FOIA tracking and processing systems used within DOT, including the possible consolidation of DOT tracking systems. We carefully analyzed the information received from the 17 vendors who provided information in response to the RFI. Our analysis concluded that our current systems, when combined with e-discovery products already in use by several components, make the best use of resources. The e-discovery software has document management, search, and redaction capabilities that partner very well with our current tracking systems. We will explore opportunities for expansion of e-discovery software, which can be used by both FOIA and litigation staff, to additional components. We will also explore whether FRA and SLSDC could enhance their tracking and reporting by shifting to the FHWA system.

## **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 place simple requests on a separate track for simple requests. During FY 2014, the average number of days to process simple requests was 24.575. Of DOT's 11,213 requests processed, 79 percent were placed in the simple track.

### ***Backlogs***

Our backlog of pending requests did not decrease from the end of FY 2013 to the end of FY 2014. 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. In

addition, FMCSA had a 2-month gap in their contractor support during the reporting period. DOT's backlog of initial requests is 13.5 percent of the number of requests received during FY 2014.

Our backlog of pending administrative appeals decreased from the end of FY 2013 to the end of FY 2014. DOT's backlog of appeals is 28 percent of the number of appeals received during FY 2014. (Note: DOT received significantly fewer appeals during FY 2014 than in FY 2013.)

### ***Backlog Reduction Plans***

In FY 2013, DOT did not have a backlog of over 1,000 requests. However, at the end of FY 2014, DOT had a backlog of 1,624 requests. We determined that DOT's backlog reduction plan should focus on FAA and FMCSA. These two components received nearly 83 percent of DOT's incoming requests in FY 2014 and both saw significant increases in their backlogs. I met with managers in these two programs and requested that each of them prepare a backlog reduction plan for the component. The Departmental FOIA Officer and I will monitor FAA and FMCSA progress on a quarterly basis.

### ***Status of Ten Oldest Requests, Appeals, and Consultations***

In FY 2014, we closed all of the ten oldest requests that were pending as of the end of FY 2013. Of the ten that were closed, three were withdrawn. In those three cases, no records had been provided to the requesters prior to the request being withdrawn.

In FY 2014, we were not able to close the ten oldest administrative appeals that were pending as of the end of FY 2013; however, we closed nine of the ten oldest appeals.

At the end of FY 2013, we had three pending consultations, which we were able to close out during FY 2014.

### ***Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans***

Factors that contributed to our not being able to close one appeal were the volume of the records to be reviewed and the loss of staff. Pending consultations with other agencies did not contribute to our inability to close the final appeal by the end of the fiscal year.

The Departmental FOIA Officer is working closely with the OIG FOIA manager to monitor progress of the one appeal on the ten oldest listing that we were not able to close in FY 2014. The OIG FOIA Officer vacancy was filled in March 2015, and we anticipate the appeal will be closed during the third quarter of FY 2015.

All DOT 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. In addition, during FY 2015, the Departmental FOIA Officer will monitor the progress of each of the Department's ten oldest initial requests, appeals, and consultations, and report the status to me on a monthly basis. If sufficient progress has not been made, I will reach out to managers in the relevant components.

### *Interim Responses*

The majority of DOT components use interim responses to get documents to requesters on a rolling basis. The components determine when to make use of interim responses 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 (6 percent) of our backlogged cases have received a substantive, interim response.

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

DOT did not invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during FY 2014.

## *Success Story*

We would like to highlight the significant backlog reduction of both initial requests and appeals by FHWA during FY 2014. The FHWA's FOIA program is decentralized, with FOIA points of contact in headquarters and field offices. The FHWA's overall FOIA program is managed at headquarters by a FOIA Office housed in the Office of Chief Counsel. During the reporting period, the FHWA FOIA Office restructured its processes and procedures. This included changing the process by which attorneys are assigned to review appeals, implementing new procedures to obtain the records at an earlier time in the processing of the appeal, and adding appeal tracking requirements. The FOIA Office also reallocated duties of members of the FOIA team for greatest efficiency. Finally, the FHWA FOIA Office clarified the procedures for coordinating responses to initial FOIA requests when more than one FHWA office needs to search for responsive records. These initiatives, along with the leadership and hard work of the FOIA Office, and the continued hard work of the program and field offices, have produced excellent results.