

U.S. Department of Transportation



Chief FOIA Officer Report

March 2017

Chief FOIA Officer: **Judith S. Kaleta**
Deputy General Counsel

U.S. Department of Transportation

2017 Chief FOIA Officer Report

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I am pleased to show in this eighth annual Chief FOIA Officer Report that the Department of Transportation (DOT or Department) continues its commitment to improving its FOIA program. This report covers the period of March 2016 to March 2017. Statistical information related to backlogs is based on data from DOT's FY 2016 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, along with the number of requests each received in FY 2016:

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2016
FAA	Federal Aviation Administration	9,582
FHWA	Federal Highway Administration	356
FMCSA	Federal Motor Carrier Safety Administration	2,307
FRA	Federal Railroad Administration	413
FTA	Federal Transit Administration	250
MARAD	Maritime Administration	100
NHTSA	National Highway Traffic Safety Administration	253
OIG	Office of the Inspector General	93
OST	Office of the Secretary of Transportation	266

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2016
PHMSA	Pipeline and Hazardous Materials Safety Administration	176
SLSDC	Saint Lawrence Seaway Development Corporation	4

During FY 2016, DOT expended a total of 110 staff-years of effort on its FOIA program, which included the work of 36 full-time FOIA staff. The remaining 74 staff-years of effort included 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 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.

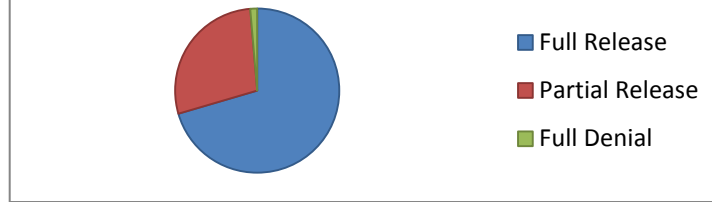
For FAA and FHWA, FOIA activities are shared among numerous field and headquarters program offices. Each of the decentralized offices receives FOIA requests, searches for records, reviews records, and makes releasability determinations. Even in these decentralized programs, there is an office at headquarters 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 2016 Data

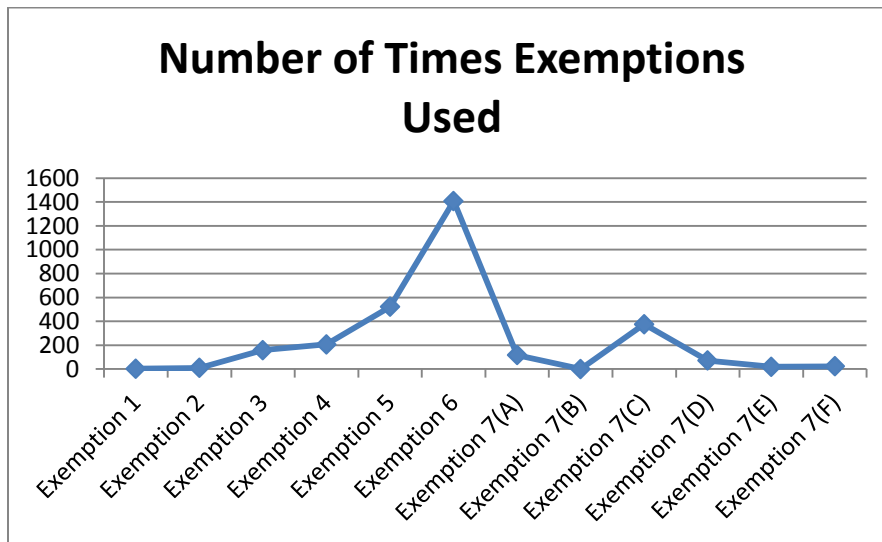
During FY 2016, DOT processed 11,929 FOIA requests. In over 76 percent (or 9,123) of the 11,929 cases processed, records were located and a determination was made, based on exemptions, to fully release, partially release, or fully deny. The following chart shows that full or partial releases were made in over 98 percent of those cases.

Disposition of Cases Based on Exemption



In those cases where information was partially released/partially denied or fully denied, the chart below shows the number of times each exemption was applied. As the chart demonstrates, the FOIA exemption most frequently invoked was Exemption 6, which protects the personal privacy of individuals.

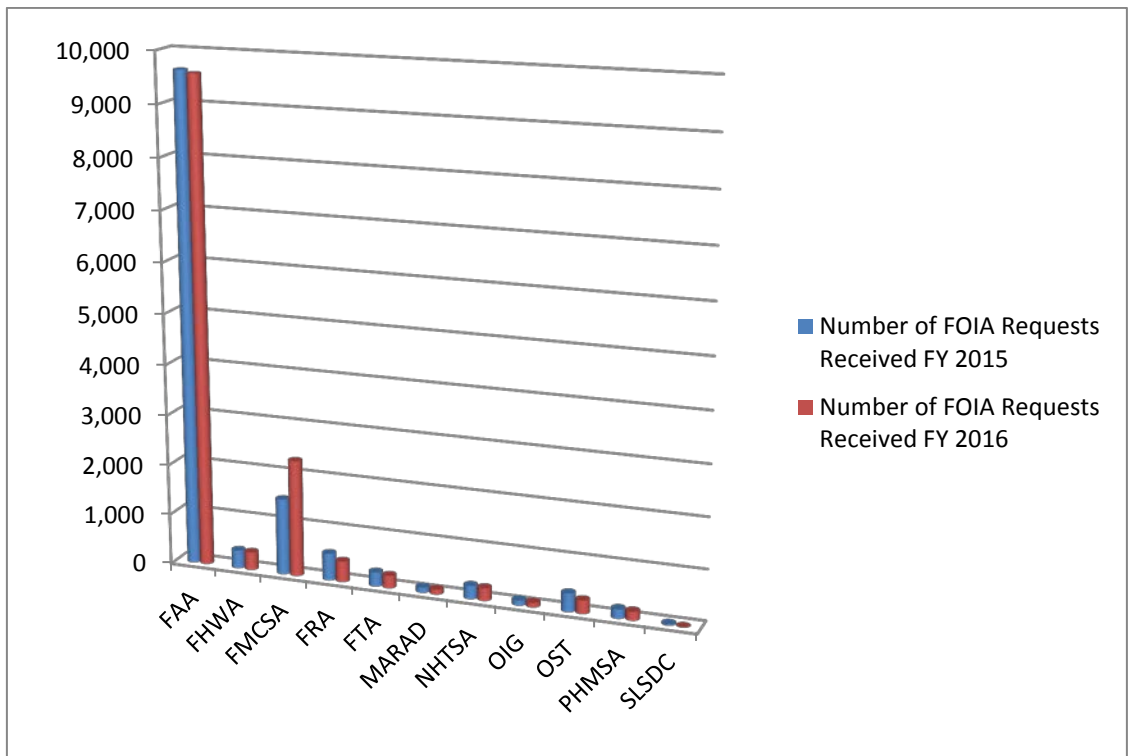
Number of Times Exemptions Used



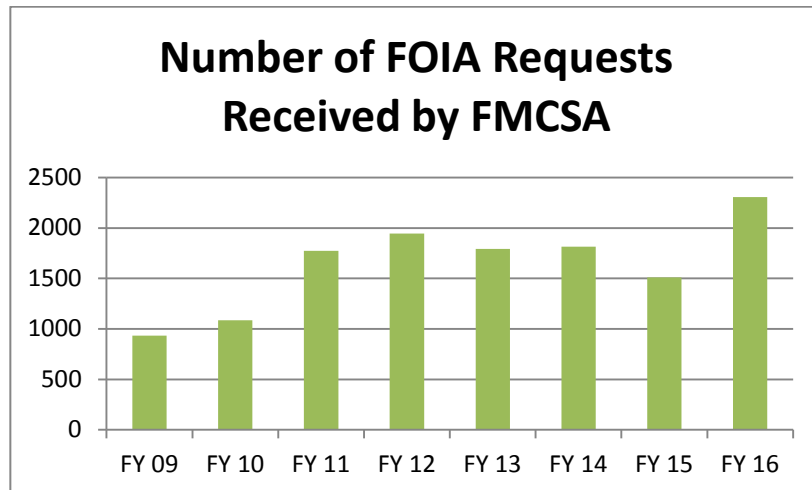
In approximately 14 percent (or 1,693) of the 11,929 cases processed, no records were located. Approximately half of those were requests for information from FAA’s airmen database. Often, companies ask for enforcement and accident histories for pilots or mechanics they are considering hiring. A “no records” 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 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.

During FY 2016, 10 of DOT’s 11 components received fewer FOIA requests than they received the previous fiscal year. However, the remaining component – FMCSA, which is the second largest DOT component in terms of numbers of requests received – received 53 percent more requests in FY 2016 than

in the previous fiscal year, which is reflected in the chart below. The increase in requests to FMCSA during this fiscal year is not readily attributable to any particular reason and may just be an anomaly.



Following is a chart that shows the rise in the number of FOIA requests received by FMCSA over the years.



Section 1: 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.

Training for FOIA Professionals

DOT employees in various components attended a wide variety of FOIA training sessions. This included formal training sponsored by the Department of Justice's Office of Information Policy (DOJ/OIP), such as *Introduction to the FOIA*, *FOIA for Attorneys and Access Professionals*, *FOIA Litigation Seminar*, and *Advanced FOIA Seminar*. In addition, many DOT FOIA professionals attended the annual 3-day National Training Conference sponsored by the American Association of Access Professionals (ASAP), viewed various ASAP-sponsored FOIA educational webinars, and attended ASAP-sponsored luncheon seminars.

During the reporting period, access to DOJ/OIP's online in-depth training module designed for FOIA professionals was expanded and is now available to employees in all DOT components.

The FAA FOIA Office conducts in-service training at its weekly staff meetings and monthly in-service training for its organizational FOIA Coordinators. The training materials are then posted on FAA's internal FOIA Toolkit webpage for future reference by FAA's FOIA professionals.

In FHWA, the headquarters FOIA Team provided one-in-one training to all headquarters staff with FOIA responsibilities and training by phone for FOIA contacts in the program offices as needed. The headquarters FOIA Team also encouraged new FOIA staff members to watch the FHWA-specific FOIA training videos.

FOIA professionals throughout DOT attended OST-sponsored monthly meetings that included FOIA updates and training. Changes brought about by the FOIA Improvement Act of 2016 were highlighted in several of these monthly meetings.

The FHWA FOIA Office developed comprehensive guidance related to the new 2016 FOIA Improvement Act and provided it to all FOIA professionals in its decentralized FOIA program.

Percentage of FOIA Professionals Trained

Using the methods described above, as well as on-the-job training, DOT achieved its goal of providing substantive FOIA training to all DOT FOIA professionals during the reporting period.

Outreach

DOT worked closely with individual FOIA requesters throughout the year. Although DOT did not engage in any formal outreach to the requester community, we will explore opportunities for such outreach during the next reporting period, possibly in conjunction with other agencies.

Educating non-FOIA Professionals on their FOIA Obligations

DOT has taken many steps to ensure that non-FOIA professionals are made aware of their FOIA obligations, including making the DOJ/OIP online training module designed specifically for non-FOIA professionals available to all DOT employees.

During this reporting period, we developed a process for ensuring that all new DOT employees understand their FOIA responsibilities. New employees in seven components (FMCSA, FRA, FTA, MARAD, NHTSA, OIG, and PHMSA) are given an in-person introduction to FOIA by a FOIA professional during the consolidated onboarding training for those seven components, as well as given a copy of the DOJ-created FOIA infographic. In January 2017, DOT developed its own DOT-specific FOIA infographic summarizing FOIA and the FOIA process, which DOT now uses instead of the more general DOJ infographic. The remaining four components also provide FOIA information to new employees as part of the onboarding process.

FAA has included the DOJ online training for all employees as well as the Executive Briefing on the FOIA in its electronic Learning Management System training inventory. The DOJ infographic (and more recently, the DOT-specific infographic) has been included in the onboarding information for new employees. FAA conducted advanced training courses for specific program offices focusing on their records and the most frequently applied exemptions.

PHMSA conducted regional-level and agency-wide FOIA training sessions for program staff and required FOIA training in the electronic training management system for all new PHMSA Federal employees.

The MARAD FOIA Officer presented senior MARAD leadership (Administrator, Deputy Administrator, Chief Counsel, and all MARAD Associate Administrators) with an hour-long FOIA educational briefing that included a 15-minute question and answer session.

Coinciding with the 50th anniversary of the FOIA, representatives from OST, MARAD, and NHTSA participated in a panel on FOIA given to all DOT attorneys during the annual DOT Attorneys Conference. Also, coinciding with both the FOIA's 50th anniversary and DOT's 50th anniversary, we published an article on DOT's internal web page highlighting FOIA. In May 2016, a "FOIA Basics" article,

written by the FOIA Program Manager for the Air Traffic Organization, was included in the FAA Daily Broadcast, which is sent to all FAA employees and contractors.

The FHWA FOIA Office announced the availability of both the DOJ/OIP online training and FHWA's online training videos to all non-FOIA professionals who work on FOIA. FHWA also is involved in an ongoing effort to update its internal FOIA help webpage, which provides assistance to FHWA employees with questions about their FOIA obligations. In addition to providing information regarding changes related to the 2016 FOIA Improvement Act to FOIA staff, the FHWA FOIA Office also provided managers with an email notice highlighting the changes.

NHTSA FOIA professionals regularly engage with non-FOIA professionals at NHTSA. Also, for each FOIA request, potential custodians are provided with a notice that lists the custodian's FOIA obligations.

New employee orientation at the OIG includes reference to the FOIA obligations of Federal employees. The Deputy Inspector General and other senior leadership also receive quarterly reports regarding the progress of the FOIA program, and the Deputy receives an in-person briefing.

All DOT components also conduct, as appropriate, one-on-one discussions with record holders on their obligations to furnish information under FOIA.

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

To ensure continued improvement to the effective and efficient management of our FOIA program, several years ago, I initiated an annual FOIA work plan. 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 through monthly meetings with the DOT FOIA Officer and her supervisors. The DOT FOIA Officer discusses best practices related to FOIA processes, as well as progress related to the work plan in monthly DOT-wide FOIA meetings.

Processing Procedures

In addition to the analysis conducted by the DOT FOIA Officer in conjunction with the Annual Statistical Report, several components conducted self-assessments of their FOIA programs during the reporting period.

PHMSA regularly self-assesses its FOIA program, which includes evaluating the methods and processes used and areas for improvement. A 2015-2016 initiative for the FOIA program included the

evaluation of template language for requester correspondence and the creation of a template library. PHMSA finalized the first version of the template library in 2016. The topic of template letters has been discussed at monthly DOT-wide FOIA meetings, and several other components extensively use template letters. We are incorporating template letter samples into our FOIA Reference Library on DOT's FOIA SharePoint site to facilitate sharing across the components.

A 2016/2017 PHMSA initiative included the evaluation of its FOIA program processes so that standard operating procedures (SOP) can be identified and documented. PHMSA aims to complete the FOIA SOPs in 2017. This topic was discussed at a monthly DOT-wide FOIA meeting, and we are exploring expanding this initiative to all components.

Every year, FHWA conducts a self-assessment of its FOIA program by reviewing current annual report data and comparing the data with information from prior years. Based on the review of its data, the FHWA FOIA Office sets goals for improving its effectiveness in targeted areas.

MARAD performed a review of its FOIA activities using the reporting capability built into its FOIA processing software. The MARAD FOIA Office also regularly meets to go over policy and procedures to identify areas that can be improved.

For Fiscal Year 2016, the average number of days to adjudicate requests for expedited processing was 3.97.

DOT processed 11,929 FOIA requests in FY 2016. Approximately 7,900 (66 percent) of those were from commercial use requesters. Three components received the majority of their requests from commercial use requesters: FAA (73 percent), FMCSA (89 percent), and FRA (65 percent).

Requester Services

The primary way that DOT offers requesters a way to provide feedback about their experiences with the FOIA process is through our FOIA Public Liaisons. During the reporting period, I met with the DOT's FOIA Public Liaisons to ensure they understood their responsibilities as FOIA Public Liaisons and to offer them my support as DOT's Chief FOIA Officer.

FOIA Public Liaison contact information is included in initial response letters and on DOT's FOIA Home Page, as well as on each component's FOIA Home Page. DOT also provides contact information in acknowledgement letters and other FOIA correspondence.

FHWA staff regularly communicates with requesters via emails and receives input and feedback in the course of those communications. Also, requesters routinely email comments to MARAD FOIA Office using the foia.marad@dot.gov email box.

During the reporting period, DOT's Public Liaisons throughout the Department have reported approximately 175 contacts with requesters. Due to the number of requests they receive and process, the vast majority of these interactions were with FAA's FOIA Public Liaison.

DOT has posted on its FOIA Home Page both a [comprehensive FOIA Reference Guide](#), as well as an [abbreviated FOIA Reference Guide](#).

Other Initiatives

DOT has taken many steps to ensure that its FOIA program operates efficiently and effectively. In OST, the FOIA Office worked to streamline collection of documents from program offices in an electronic format using shared directories.

During the reporting period, MARAD partnered with NHTSA in sharing a FOIA processing system. Doing so has allowed both parties to benefit from lessons learned during the course of operating the system and to share best practices.

NHTSA regularly updates its processing procedures during the course of the year. It assesses its processing procedures on a case-by-case basis as the needs arise. When the need for a correction is identified, NHTSA amends its processing procedures accordingly.

PHMSA is in the process of implementing two major changes to its search process that will improve the efficiency and effectiveness of agency searches. PHMSA will be using current technology to automate parts of its search process, which includes automatically sending, tracking, and completing search tasks in one spot. This new process will track searches for the FOIA team, send an auto-reminder to the searching office when a search becomes overdue, allow an individual to track the searches that have been assigned to them, and replaces the current pdf form. In addition, PHMSA is creating a new "FOIA Coordinator" role for its program offices. The primary role of the FOIA Office Coordinator will be tasking the search to employees within his/her office, and certifying the search when his/her office's search is complete. FOIA Coordinator training will be developed in 2017 to help PHMSA employees assigned to this new role.

In FY 2016, FHWA implemented a process for documenting a search, including indicating on a search form who performed the search, what terms were used, what system was searched, and the keywords used. FHWA is making use of this form mandatory for initial requests that involve multiple offices and/or complex searches.

To maintain accountability, OIG reports quarterly to its senior leadership on FOIA progress and statistics compared to previous years to maintain accountability.

Section III: Steps Taken to Increase Proactive Disclosures

During this reporting period, DOT has made concrete steps to increase the amount of “in demand” material on our website using collaborative teams in each DOT component.

The Department’s third Open Government Plan committed to increasing the amount of information provided on DOT’s web pages – in a systemic manner designed to ensure ongoing releases of data – by requiring each component to create a plan for doing so. We brought together experts from the components representing a variety of disciplines, such as Public Affairs, Open Government, FOIA, Records Management, Web, Communications, and Data. Each component’s cross-functional team developed a component-specific action plan for making “in demand” information publicly available on an ongoing basis and met periodically during the reporting period to monitor progress.

Posting Material

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](#), and [speeches](#). The main DOT briefing room also contains [links to each component’s briefing room](#) and to [featured DOT social media sites](#).

DOT’s components regularly monitor their FOIA logs to identify frequently requested records. In addition, each DOT component included an item on identifying these records as part of its “proactive disclosure” plan, which is described in detail below.

Each DOT component has also identified a distinct process for identifying records other than those required to be posted as frequently requested records in its “proactive disclosure” plan, which is described in detail below.

During this reporting period, DOT components reported leveraging their program offices to lessen the challenge of making large volumes of records 508 compliant.

Examples of Information Posted

Following are just a few examples of records that have been proactively posted or updated during the reporting period.

Under our proactive disclosure plans, all DOT components have posted their FY 2015 and FY 2016 FOIA logs.

FTA proactively posted all of the reports of FTA's inspections of the Washington Metropolitan Area Transit Authority (WMATA). FTA posted both the [general postings and summary](#) and [individual inspection reports](#).

FMCSA posted the most recent edition of the [Electronic Field Operations Training Manual](#) (eFOTM Version 5.0), and updated its Safety and Fitness Electronic Records ([SAFER](#)) System, which offers up-to-date safety data and related information on interstate trucking companies and motor coaches.

OST continued to post information related to its [Transportation Investment Generating Economic Recovery \(TIGER\) grant program](#), information regarding [drug and alcohol testing](#) of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries, and the monthly [Air Travel Consumer Report](#), which provides information on the quality of services provided by the airlines.

PHMSA maintained and updated [pipeline data](#).

FHWA posted the FHWA FOIA logs, Small Purchase Credit Card Holders, and FHWA's Safety Strategy regarding ET-Plus Guardrail End Terminals in the [FHWA Electronic Reading Room](#).

FAA posted additional Unmanned Aircraft System information, including a [Geographic Listing of sUAS Registry Enrollments and Registrants](#) and [Reported Encounters with Unmanned Aircraft Systems \(UAS\)](#). FAA also continued to update on a weekly basis its [aircraft tail number search](#) feature.

[FRA's eLibrary](#) continues to provide a wealth of FRA documentation, containing over 5,000 documents searchable by date, subject, and type, and the [Rail Network Development webpage](#) includes a map created using Geographic Information Systems (GIS), allowing users to view and print precise maps of passenger rail, freight stations, grade crossings, and more through an interactive interface.

NHTSA disclosed large amounts of information ranging from grant funding tables ([2013](#), [2014](#), [2015](#), and [2016](#)) to enforcement cases involving allegedly defective or noncompliant motor vehicles and equipment.

SLSDC posted an [interactive shipping map and shipping schedule](#) for vessels transiting the Great Lakes-St. Lawrence Seaway System.

OIG continued to post information regarding its [audits](#) and [investigations](#).

MARAD posted historical vessel correspondence to the MARAD Vessel History Database, including documents for vessels such as the [ANTIGUA](#).

Publicizing Posted Material

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, YouTube, Instagram, and Vine to further the reach of their messages. The heads of components also contributed guest blogs to the [Secretary of Transportation's Blog](#).

Important proactive disclosures are featured prominently on the FHWA website and occasionally are noted in press releases or other press communications.

NHTSA actively publicizes large motor vehicle defect investigations. These publications regularly include a link on the agency's webpage to records related to these investigations.

PHMSA, like other DOT components, makes use of press releases to highlight important proactive disclosures for public awareness. For instance, through a December 2016 [press release](#), PHMSA was able to quickly get out information on a Corrective Order Action PHMSA issued related to a release of crude oil.

Other Initiatives

During the previous reporting period, DOT's Chief Data Officer and Departmental FOIA Officer formed a cross-modal, cross-functional group to help implement the Open Government Plan guidance mentioned above. They 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 was to be more systematic in the area of proactive disclosures, and we believed this collaboration was key.

The Chief Information Officer and the General Counsel then sent a memorandum to the Heads of the Operating Administrations (OAs) titled, "Developing a Systemic Approach for Increasing the Public Availability of Information about Agency Operations." That memorandum directed the OAs to develop plans for systematically identifying and posting more "in demand" information on their responsive websites. The guidance to the OAs instructed them address, at a minimum, certain types of documents (Congressional reports and testimony, FOIA request logs, funding/apportionment tables, and correspondence logs). The guidance also instructed the OAs to review their current practices, including how they ensure that Electronic Reading Rooms are current, and identify new information or data releases based on various demand signals. During this reporting period, those plans were implemented.

The OAs' plans are posted at <https://www.transportation.gov/mission/open/plans-increasing-public-availability-information-about-agency-operations>. The OAs monitored their plans throughout the year in various ways. For example, the Executive Sponsor for OST held periodic meetings with the program offices and support offices that formed the OST Team.

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.

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.

FRA continues to use a 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.

As noted above, the exercise of "Developing a Systemic Approach for Increasing the Public Availability of Information about Agency Operations" undertaken by all DOT OAs brought together cross-functional teams to develop and implement their "proactive disclosure" plans. The components listened to various demand signals and feedback, including through web analytics, to target what additional information to post and/or make easier to find. The components reported great value in bringing these multi-disciplinary teams together to identify additional records and new ways to post agency information online.

Several components also use mobile applications to reach their intended audiences. One such example is FMCSA's Pre-Employment Screening Program ([PSP Mobile Application](#)), which allows PSP account holders to access commercial driver crash and inspection histories on-the-go using the PSP iDevice mobile application.

Use of Technology to Facilitate Processing of Requests

The majority of DOT components reported expanded use of technology for processing FOIA requests and conducted training on the new technology (case management systems, and search, redaction, and other processing tools).

PHMSA conducted training sessions for its Commercial Off-the-Shelf (COTS) e-discovery processing tool. The training included creating databases, de-duplicating record sets, conducting searches, and redacting records.

The FHWA FOIA Office received training on the use of FHWA's new FOIA database and case management system (FOIALOG). The FHWA FOIA Office then conducted individualized training for FOIA staff at headquarters and across the country on the use of the new system.

FOIA professionals in two components attended system training provided by their commercial off-the-shelf FOIA product company, including an add-on product that provides de-duplicating and email threading.

In OST, the FOIA team used on-the-job training to expand the use of an e-discovery tool for FOIA processing.

FRA implemented a new FRA-wide case management system, including a FOIA module. Training was provided to FRA FOIA staff on the new system.

FAA offered and encouraged online training on its commercial off-the-shelf redaction tool for FAA's FOIA professionals. FAA is also using webpage postings and SharePoint technology to enhance document sharing.

Using Advanced Technology

Beyond using technology to redact documents, DOT is taking the following steps to use more advanced technology to facilitate overall FOIA efficiency.

To avoid the need to review the same email more than once when responding to a FOIA request, several components purchased de-duplicating and email threading software during the reporting period, while other components are exploring the possibility of purchasing such software. Another component purchased a tool that helps search and sort emails.

PHMSA is taking steps to use more advanced technology. PHMSA uses a file share site as needed to facilitate the sharing of records when the records are too large to email. This allows for requesters (or other agencies for consultations) to receive records more quickly. PHMSA also uses a de-duplication software and e-discovery database to review records. This software saved the agency time by, for example, de-duplicating records, thereby automatically reducing the records under review at an initial review stage. Furthermore, the tool allows for multiple reviewers to simultaneously work on the same review, and enhances collaboration among the reviewers. The product allows for sophisticated searching to target responsive records, and allows a reviewer to find "the needle in the haystack." Lastly it has served as a customer-friendly negotiation tool with requesters. PHMSA has used the e-discovery tool to suggest search terms and immediately report back to requesters on the search results, which has helped narrow the scope of the request and hence reduce the number of documents under review. It also

automatically categorizes and group records so that the requester can receive status updates on the types of records under review.

The new FOIALOG system facilitates electronic preservation of the administrative record of initial requests to allow FHWA to more efficiently address FOIA appeals and litigation. Implementation of this system feature is planned for the first quarter of Calendar Year 2017. In addition, the new FOIALOG system facilitates more efficient transferring of referrals within DOT. (Note: Six DOT components currently use this system.)

MARAD uses de-duplication and containment technology to ensure that its processing is efficient and that it produces high quality results for requesters.

Several components reported using shared drives to collect documents from program offices. One component is also considering the use of existing technologies to create a process workflow that will automate search assignments and search form completions.

Advanced technology related to FOIA processing was a primary topic of one of the monthly DOT-wide FOIA meetings. Components shared best practices and answered questions from other components regarding the various technologies throughout DOT. We then encouraged DOT agencies to provide demonstrations of their advanced technologies to other components as requested.

Other Initiatives

As required by DOJ, DOT successfully posted all of the required quarterly FOIA reports for FY 2016.

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

DOT recognizes the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction.

Simple Track Requests

In FY 2016, all but one component placed simple requests in a separate track. Beginning in FY 2017, the remaining DOT component began placing simple requests on a separate track for simple requests.

During FY 2016, the average number of days to process simple requests was 39.81. Of DOT's 11,929 requests processed, approximately 80 percent were placed in the simple track.

Backlog of Initial Requests

Six components (MARAD, OIG, OST, FTA, FHWA, and SLSDC) either reduced their backlogs or held steady from the previous year. In the remaining five components (FAA, FMCSA, FRA, NHTSA, and PHMSA), backlogs increased, in some cases significantly. FAA's backlog increased by 47 percent, FMCSA's by 310 percent, FRA's by 50 percent, NHTSA's by 30 percent, and PHMSA's by 38 percent.

Overall, our backlog of pending requests increased by nearly 93 percent. The increase in the initial request backlog was the result of an increase in the number of FOIA requests received by FMCSA, a shift in the way FAA's backlog is calculated for purposes of this report¹, an increase in the complexity of requests received (FAA, FMCSA, FRA, NHTSA, and PHMSA), and staffing vacancies (FAA, FMCSA, FRA, NHTSA, and PHMSA).

The increase in the number of complex requests relates to high public interest in Departmental activities related to matters such as unmanned aircraft systems (FAA) and Positive Train Control (FRA), derailments (FRA), enforcement actions related to vehicle manufacturers (NHTSA), and pipeline and hazardous materials incidents/accidents (PHMSA) – to name a few. When FOIA requests for these high visibility programs end up in litigation, resources are necessarily diverted from FOIA processing.

DOT's backlog of initial requests is 26 percent of the number of requests received during FY 2016.

Backlog of Appeals

DOT's backlog of appeals at the end of FY 2015 was 20, a low number based on the number of requests processed by DOT. At the end of FY 2016, the backlog of appeals rose to 60. The only component where an increase occurred was FAA, and the increase was directly attributable to a vacancy that occurred in FAA's headquarters FOIA Office during the reporting period. FAA has since hired an individual to fill that position, and the backlog is already decreasing.

DOT's backlog of appeals is 41 percent of the number of appeals received during FY 2016.

Backlog Reduction Plans

Between FY 2015 and FY 2016, our backlog of appeals and consultations was reduced; therefore, we did not have a backlog reduction plan for them. We did, however, have a backlog reduction plan for initial requests.

¹ Like other DOT components, FAA routinely negotiates deadlines with its requesters. Prior to FY 2016, if an FAA-negotiated deadline had not passed, FAA would not capture that request as backlogged/overdue. In FY 2016, for purposes of reporting to DOJ, we began capturing anything in FAA beyond the 20 or 30 working day deadline to be backlogged/overdue.

As background, at the end of FY 2014, DOT had a backlog of 1,624 requests, so we developed a backlog reduction plan that focused on the components with the largest volume of requests -- FAA and FMCSA. At the end of FY 2015, DOT had a backlog of 1,865 requests, and our backlog reduction plan for FY 2016 focused on all of the components that experienced increases in their backlogs: FAA, FRA, NHTSA, and PHMSA. I tasked the DOT FOIA Officer with monitoring the backlogs in those components during FY 2016. As noted above, the number and complexity of requests received, along with staffing vacancies, led to an increase in our backlog, but our close monitoring has led to lessons learned, which we began applying in FY 2017, as described in the following paragraph. Also during FY 2016, FMCSA's backlog of initial request, which had gone down slightly the previous fiscal year, dramatically increased during FY 2016.

During FY 2017, our backlog reduction plan will once again focus on the components that saw an increase in their backlogs (FAA, FMCSA, FRA, NHTSA, and PHMSA). Due to the fact that NHTSA and PHMSA are lower volume FOIA programs, and both have added resources to their programs during the end of this reporting period, our monitoring of their programs will be on a quarterly basis via email or phone. For the remaining programs (FAA, FMCSA, and FRA), however, I have asked the DOT FOIA Officer to have in-person meetings with the respective FOIA Officers, and as appropriate, program office staff in those three components every 60 days and report progress to me. If backlogs in those programs are not being reduced, I will take additional steps towards reducing the backlogs.

Status of Ten Oldest Requests, Appeals, and Consultations

In FY 2016, we closed seven of the ten oldest requests that were pending as of the end of FY 2015. Of the seven that were closed, none were withdrawn.

In FY 2016, we closed eight of the ten oldest appeals that were pending as of the end of FY 2015.

In FY 2016, we closed one of the two pending consultations.

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

Three initial requests, two appeals, and one consultation on the "10 oldest" lists were not closed in FY 2016. This was due to staffing vacancies, the complexity and volume of the responsive records, and competing priorities.

DOT's remaining "10 oldest" initials, appeals, and consultations from FY 2015, as well as all of DOT's "10 oldest" initials, appeals, and consultations from FY 2016, are assigned to either FAA or FRA.

Backlog Reduction Plan for Closing “10 Oldest” Requests, Appeals, and Consultations

Our backlog reduction plan for closing the “10 oldest” requests, appeals, and consultations will piggy-back on the backlog reduction plan for reducing backlogs. When the DOT FOIA Officer has her in-person meetings with FAA and FRA every 60 days, the meetings will cover both reduction of backlogs and closing any remaining requests from DOT’s FY 2015 “10 oldest” lists, as well any requests they have on DOT FY 2016 “10 oldest” lists (initials, appeals, consultations). The DOT FOIA Office will discuss strategies on a case-by-case basis for completing pending requests. I will reach out to officials in the respective components (FAA and FRA) to seek assistance from them if there is a need for additional progress in closing the oldest requests.

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. 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.

FHWA frequently provides interim responses to requesters when a request is complex, searches in multiple offices are needed, and FHWA therefore is not able to meet the 20-day statutory deadline. In this situation, FHWA provides records available in one or more interim responses, and also provides an estimated date for the final response letter and document release.

When necessary, MARAD communicates with requesters to determine if they would welcome interim releases of records in an effort to set production expectations and schedules.

In PHMSA, the FOIA Office promptly conducts a preliminary review of search results to determine if any records responsive to a FOIA request are the type of record typically released in full (e.g., certain forms and reports). PHMSA subsequently makes these types of records available to the FOIA requester as soon as practicable. In addition, PHMSA works with FOIA requesters to develop agreeable production schedules that facilitate interim responses.

We estimate that requesters in approximately 200 (6 percent) of our backlogged cases have received a substantive interim response.

Success Story

DOT would like to highlight steps that PHMSA is taking to increase its use of advanced technology in processing FOIA requests:

- PHMSA uses a file share site as needed to facilitate the sharing of records when the records are too large to email. This allows for requesters (or other agencies for consultations) to receive records more quickly.
- PHMSA also uses a de-duplication software and e-discovery database to review records. This software saved PHMSA time by, for example, de-duplicating records, thereby automatically reducing the records under review. Furthermore, the tool allows for multiple reviewers to simultaneously work on the same review, and enhances collaboration among the reviewers. The product allows for sophisticated searching to target responsive records, and allows a reviewer to find “the needle in the haystack” responsive to a FOIA request. Lastly, it has served as a customer-friendly negotiation tool with requesters. PHMSA has used the e-discovery tool to suggest search terms and immediately report back to requesters on the search results, which has helped narrow the scope of the request and hence reduce the number of documents under review. It also automatically categorizes and group records so that the requester can receive status updates on the types of records under review.
- PHMSA conducted training sessions for its Commercial Off-the-Shelf (COTS) e-discovery processing tool. The training included creating databases, de-duplicating record sets, conducting searches, and redacting records.