

**U.S. DEPARTMENT OF TRANSPORTATION  
FREEDOM OF INFORMATION ACT (FOIA) REPORT  
FISCAL YEAR 2007**

**I. Basic Information Regarding Report**

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**II. How to Make a FOIA Request**

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**B.** Brief description of the Agency's response times.

Response times varied among the Department's components. For a breakdown of each component's response times, see Section VII of this report, Compliance With Time Limits.

**C.** Brief description of why some requests are not granted.

Some requested records, or portions of records, were withheld pursuant to the FOIA's exemptions. The most frequently used exemption in DOT was Exemption 6, which protects against a clearly unwarranted invasion of personal privacy. Other reasons for not granting requests included: (1) DOT did not have the records sought; (2) the requester did not seek records; rather, he or she was seeking answers to questions; or (3) the information from the records sought was publicly available. For detailed breakdown, see Section V.B. of this report, Disposition of Initial Requests.

**III. Definitions of Terms and Acronyms Used in the Report**

**A.** Agency-specific acronyms or other terms.

<b>DOT</b>	Department of Transportation
<b>OST</b>	Office of the Secretary of Transportation
<b>OIG</b>	Office of Inspector General
<b>FAA</b>	Federal Aviation Administration
<b>FHWA</b>	Federal Highway Administration
<b>FMCSA</b>	Federal Motor Carrier Safety Administration
<b>FRA</b>	Federal Railroad Administration
<b>FTA</b>	Federal Transit Administration
<b>MARAD</b>	Maritime Administration
<b>NHTSA</b>	National Highway Traffic Safety Administration
<b>PHMSA</b>	Pipeline and Hazardous Materials Safety Administration
<b>RITA</b>	Research and Innovative Technology Administration
<b>SLSDC</b>	Saint Lawrence Seaway Development Corporation
<b>SSI</b>	Sensitive Security Information. (49 U.S.C. § 40119 and 49 C.F.R. Parts 15 and 1520.)
<b>Remanded Appeal</b>	An appeal request, particularly a "no records" appeal, sent back to the original action office or forwarded to another office when the requester provides additional information either clarifying the documents sought or providing additional search parameters. The action office considers the request as if it were a new request, responding directly to the requester. Remanded appeal responses may again be appealed; appeal rights are provided if the remanded appeal response is a denial, partial denial or "no records" determination.

- B.** Basic terms expressed in common terminology.
1. **FOIA / PA Request**—Freedom of Information Act / Privacy Act request. A FOIA request is generally a request for access to records concerning a third party, an organization, or a particular topic of interest. A Privacy Act request is a request for records concerning oneself; such requests may also be treated as FOIA requests.
  2. **Initial Request**—a request to a federal agency for access to records under the FOIA.
  3. **Appeal**—a request to a federal agency asking that it review at a higher administrative level a full denial or partial denial of access to records under the FOIA, or any other FOIA determination such as a matter pertaining to fees.
  4. **Processed Request or Appeal**—a request or appeal for which an agency has taken a final action on the request or the appeal in all respects.
  5. **Multi-track Processing**—a system in which requests requiring relatively minimal review are classified as simple requests and are placed in one processing track and requests that are more voluminous and that require more review are classified as complex requests. Complex requests are placed in one or more other tracks. Requests within each track are processed on a first in, first out basis. A requester who has an urgent need for records may request expedited processing (see below).
  6. **Expedited Processing**—When a requestor can show there is an exceptional need or urgency for a record or records (see 49 CFR 7.31(c)), an agency will process a FOIA request before those FOIA requests that have been submitted at an earlier date.
  7. **Simple Request**—An agency using multi-track processing will classify a low volume request that requires relatively minimal review as a simple request and will place it in its fastest, non-expedited track.
  8. **Complex Request**— An agency using multi-track processing will classify a voluminous request that requires more review as a complex request and will place it in its slower track.
  9. **Grant**—an agency decision to disclose all records in full in response to a FOIA request.
  10. **Partial Grant**—an agency decision to disclose a record in part in response to a FOIA request, withholding information determined to be exempt under one or more of the FOIA exemptions; or a decision to disclose some records in their entirety, but to withhold others in whole or in part.
  11. **Denial**—an agency decision not to release any part of a record or records in response to a FOIA request because all the information in the requested records is determined by the agency to be exempt under one or more of the FOIA exemptions, or for some procedural reason, such as no record is located in response to a FOIA request.

12. **Time Limits**—Under FOIA, the period of time within which an agency must respond to a FOIA request. Ordinarily, this period is 20 working days from proper receipt of a “perfected” FOIA request.
13. **Perfected Request**—a FOIA request for records that has been received by the FOIA office of the agency or agency component in possession of the records, which adequately describes the records sought, and for which there is no remaining question about the payment of applicable fees.
14. **Exemption 3 Statute**—a separate federal statute prohibiting the disclosure of a certain type of information and authorizing its withholding under FOIA exemption (b)(3).
15. **Median Number**—the median number is the middle number on the list in a set of numbers listed from the least number to the greatest number. For example, of 3, 7, and 14, the median number is 7. If a set of numbers has two middle numbers, the median is the number halfway between the two numbers. For example, 3, 4, 8, 12, the median number equals  $4+8 = 12/2 = 6$ .
16. **Average Number**—the number obtained by dividing the sum of a group of numbers by the quantity of numbers in the group. For example, of 3, 7, and 14, the average number is 8.

#### IV. Exemption 3 Statutes

Statute	Type of Information Withheld	Case Citation
23 U.S.C. § 403 note	The identity of individuals in highway traffic accident or research reports.	N/A
31 U.S.C. 3729(d)	Certain information on false claims	N/A
41 U.S.C. § 253b(m)	Contract proposals not incorporated in contracts.	<i>Hornbostel v. DOI</i> , 305 F.Supp.2d 21 (D.D.C. 2003)
49 U.S.C. § 1114(f)	Foreign aircraft accident investigation information.	N/A
49 U.S.C. § 30305(c)(1)	Certain information received pursuant to the National Driver Register Act of 1982.	N/A
49 U.S.C. § 31143(b)	IDs of motor carrier safety complainants.	N/A
49 U.S.C. § 40110	Contract offers to the FAA.	N/A
49 U.S.C. § 40115	Information harmful to U.S. international aviation negotiation or to any U.S. international air carrier.	N/A
49 U.S.C. § 40119	Information that would be an unwarranted invasion of personal privacy, would reveal a trade secret or privileged or confidential information, or would be detrimental to the safety of passengers in transportation.	N/A
49 U.S.C. § 40123(a)	Aviation Safety Action Program voluntarily submitted information.	N/A

<b>Statute</b>	<b>Type of Information Withheld</b>	<b>Case Citation</b>
49 U.S.C. § 46102(c)	Aviation safety, when requested for national defense	N/A
49 U.S.C. § 70114	Restricted commercial space launch activities information	N/A

## V. Initial FOIA / PA Access Requests

### A. Numbers of Initial Requests

	1. Number of requests pending end of FY 2006	2. Number of requests received during FY 2007	3. Number of requests processed during FY 2007	4. Number of requests pending as of end of FY 2007
<b>FAA</b>	1,420	6,837	6,923	1,334
<b>FHWA</b>	37	318	306	49
<b>FMCSA</b>	38	1,142	1,033	147
<b>FRA</b>	68	485	450	103
<b>FTA</b>	13	102	104	11
<b>MARAD</b>	104	120	65	159
<b>NHTSA</b>	2	181	170	13
<b>OIG</b>	86	94	96	84
<b>OST</b>	235	255	293	197
<b>PHMSA</b>	37	84	27	94
<b>RITA</b>	1	57	56	2
<b>SLSDC</b>	0	20	19	1
<b>Totals</b>	<b>*2,041</b>	<b>9,695</b>	<b>9,542</b>	<b>2,194</b>

\* This number is 156 lower than reported in last year's annual report as pending at the end of FY 2006. The 2,041 represents the adjusted, actual number of pending FOIA cases throughout the Department at the end of FY 2006/beginning of FY 2007. The discrepancy is due to an effort throughout the Department to verify the accuracy of all database information during the beginning of FY 2007. Adjustments reflect requests that were closed out in FY 2006, then re-opened in FY 2007; FY 2006 double entries discovered during FY 2007; and FY 2006 closures not entered until FY 2007. (Agencies with adjustments include FAA, FHWA, FMCSA, FRA, MARAD, OIG, and OST.)

## V. Initial FOIA / PA Access Requests

### B. Disposition of Initial Requests

	1. Number of Total Grants	2. Number of Partial Grants	3. Number of Denials	4. Other Reasons for Non-Disclosure
<b>FAA</b>	2,350	1,236	81	3,256
<b>FHWA</b>	125	36	51	94
<b>FMCSA</b>	211	607	127	88
<b>FRA</b>	212	107	3	128
<b>FTA</b>	37	30	2	35
<b>MARAD</b>	26	17	5	17
<b>NHTSA</b>	49	80	4	37
<b>OIG</b>	10	41	11	34
<b>OST</b>	55	66	6	166
<b>PHMSA</b>	25	2	0	0
<b>RITA</b>	27	11	3	15
<b>SLSDC</b>	8	3	0	8

<b>Totals</b>	<b>3,135</b>	<b>2,236</b>	<b>293</b>	<b>3,878</b>
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**V. Initial FOIA / PA Access Requests**

**B. Disposition of Initial Requests (cont'd)**

**2. & 3. Number of times each FOIA exemption was used**

	FOIA Exemptions													
	1	2	3	4	5	6	7(A)	7(B)	7(C)	7(D)	7(E)	7(F)	8	9
<b>FAA</b>	4	34	21	140	430	635	64	4	25	1	4	0	0	0
<b>FHWA</b>	0	0	6	19	17	12	0	0	1	1	0	0	0	0
<b>FMCSA</b>	0	42	75	4	4	593	17	0	279	105	4	0	0	0
<b>FRA</b>	0	1	0	12	6	94	4	0	87	0	0	0	0	0
<b>FTA</b>	0	0	0	5	11	17	2	0	0	0	0	0	0	0
<b>MARAD</b>	3	0	4	13	12	6	0	0	0	0	0	0	0	0
<b>NHTSA</b>	0	0	9	42	12	24	0	0	0	0	0	0	0	0
<b>OIG</b>	0	37	2	5	29	39	4	0	38	3	2	0	0	0
<b>OST</b>	0	0	2	35	36	52	0	0	7	0	0	0	0	0
<b>PHMSA</b>	1	0	0	1	0	0	0	0	0	0	0	0	0	0
<b>RITA</b>	0	0	0	9	0	3	0	0	0	0	0	0	0	0
<b>SLSDC</b>	0	0	0	1	0	1	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>8</b>	<b>114</b>	<b>119</b>	<b>286</b>	<b>557</b>	<b>1476</b>	<b>91</b>	<b>4</b>	<b>437</b>	<b>110</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>0</b>

**V. Initial FOIA / PA Access Requests**

**B. Disposition of Initial Requests (cont'd)**

#### 4. Other reasons for non-disclosure

	No records	Referral	Request with-drawn	Fee related	Not reasonably described	Not a proper request	Not a record	Dup. request	Available from another source	Referred to agency website	*** Litigation	Total
<b>FAA</b>	*2,402	46	**602	128	15	52	11	0	0	0	0	3,256
<b>FHWA</b>	11	32	6	0	4	5	26	10	0	0	0	94
<b>FMCSA</b>	4	3	3	7	4	9	48	10	0	0	0	88
<b>FRA</b>	103	4	19	0	0	0	0	2	0	0	0	128
<b>FTA</b>	31	0	4	0	0	0	0	0	0	0	0	35
<b>MARAD</b>	10	6	1	0	0	0	0	0	0	0	0	17
<b>NHTSA</b>	8	5	0	2	0	0	0	0	0	19	***3	37
<b>OIG</b>	19	2	2	0	0	2	0	1	0	8	0	34
<b>OST</b>	15	107	34	0	0	1	0	3	3	3	0	166
<b>PHMSA</b>	0	0	0	0	0	0	0	0	0	0	0	0
<b>RITA</b>	5	3	2	1	0	0	0	0	2	2	0	15
<b>SLSDC</b>	8	0	0	0	0	0	0	0	0	0	0	8
<b>Totals</b>	<b>2,616</b>	<b>208</b>	<b>673</b>	<b>138</b>	<b>23</b>	<b>69</b>	<b>85</b>	<b>26</b>	<b>5</b>	<b>32</b>	<b>***3</b>	<b>3,878</b>

\* A significant number of the “no records” determinations result from FOIA requests from air carriers for accident/incident histories of prospective pilots.

\*\* A substantial number of requests are withdrawn when requesters learn that they can readily obtain the same information outside the FOIA process.

\*\*\* Information in responsive records is the subject of current litigation on the issue of whether the provision in the TREAD Act (Public Law 106-414) relating to disclosure of automobile early warning data is an Exemption 3 statute under the FOIA. The question of whether 49 U.S.C. § 30166(m)(4)(C) precludes the release of automobile early warning data, the information sought in these three FOIA cases, is pending in the United States Court of Appeals for the District of Columbia Circuit, Public Citizen, Inc. v. Peters, No. 06-5304. These requests represent instances where complete denials were issued and requesters were provided with appeal rights. Once the litigation is resolved, requesters may file new FOIA requests. Since NHTSA does not have a backlog of pending FOIA requests, any new requests would be processed in a timely manner.

## VI. Appeals of Initial Denials of FOIA/PA Requests

### A. Number of Appeals

### B. Disposition of Appeals

	A. 1. Number of appeals received in FY 2007	A. 2. Number of appeals processed in FY 2007	A.3. Number of appeals pending at the end of FY 2007	B.1. Number of appeals completely upheld	B.2. Number of appeals partially upheld/partially reversed	B.3. Number of appeals completely reversed	B.4 Total Other Reasons for Non-Disclosure
<b>FAA</b>	70	117	72	36	22	4	55
<b>FHWA</b>	7	4	10	0	2	1	1
<b>FMCSA</b>	7	7	0	4	2	0	1

<b>FRA</b>	2	4	1	2	0	0	2
<b>FTA</b>	4	4	0	0	0	0	4
<b>MARAD</b>	7	7	0	1	3	2	1
<b>NHTSA</b>	5	4	1	0	1	1	2
<b>OIG</b>	5	5	0	4	0	1	0
<b>OST</b>	4	6	2	1	4	0	1
<b>PHMSA</b>	4	2	2	0	0	0	2
<b>RITA</b>	1	0	1	N/A	N/A	N/A	N/A
<b>SLSDC</b>	0	0	0	N/A	N/A	N/A	N/A
<b>Totals</b>	<b>116</b>	<b>160</b>	<b>91</b>	<b>48</b>	<b>34</b>	<b>9</b>	<b>69</b>

## VI. Appeals of Initial Denials of FOIA/PA Requests

### B. Disposition of Appeals (cont'd)

#### 2. & 3. Number of times each FOIA exemption was used

	FOIA Exemptions													
	1	2	3	4	5	6	7(A)	7(B)	7(C)	7(D)	7(E)	7(F)	8	9
<b>FAA</b>	0	3	1	12	35	22	1	0	3	0	1	0	0	0
<b>FHWA</b>	0	0	0	0	1	2	0	0	0	0	0	0	0	0
<b>FMCSA</b>	0	1	0	0	0	6	0	0	3	1	0	0	0	0
<b>FRA</b>	0	0	0	2	2	0	0	0	0	0	0	0	0	0
<b>FTA</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>MARAD</b>	0	0	0	2	2	1	0	0	0	0	0	0	0	0
<b>NHTSA</b>	0	0	1	0	0	0	0	0	0	0	0	0	0	0
<b>OIG</b>	0	1	1	0	3	4	0	0	5	0	0	0	0	0
<b>OST</b>	0	0	0	1	2	3	0	0	0	0	0	0	0	0
<b>PHMSA</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>RITA</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>SLSDC</b>	0	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Totals</b>	<b>0</b>	<b>5</b>	<b>3</b>	<b>17</b>	<b>45</b>	<b>38</b>	<b>1</b>	<b>0</b>	<b>11</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>

## VI. Appeals of Initial Denials of FOIA/PA Requests

### B. Disposition of Appeals (cont'd)

#### 4. Other Reasons for Non-Disclosure

	No records	Referral	Request with-drawn	Fee related	Not reasonably described	Not a proper appeal	Not an agency record	Dup. request	Available from another source	Remanded	Litigation*	Total
<b>FAA</b>	12	0	6	0	0	1	0	0	0	36	0	<b>55</b>
<b>FHWA</b>	1	0	0	0	0	0	0	0	0	0		<b>1</b>
<b>FMCSA</b>	0	0	0	0	0	1	0	0	0	0	0	<b>1</b>
<b>FRA</b>	2	0	0	0	0	0	0	0	0	0	0	<b>2</b>
<b>FTA</b>	0	0	4	0	0	0	0	0	0	0	0	<b>4</b>
<b>MARAD</b>	0	0	1	0	0	0	0	0	0	0	0	<b>1</b>
<b>NHTSA</b>	0	0	0	0	0	0	0	0	0	0	2	<b>2</b>
<b>OIG</b>	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>OST</b>	0	0	0	0	0	0	0	0	0	1	0	<b>1</b>
<b>PHMSA</b>	0	0	0	1	0	0	0	0	0	1	0	<b>2</b>
<b>RITA</b>	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>SLSDC</b>	0	0	0	0	0	0	0	0	0	0	0	<b>0</b>
<b>Totals</b>	<b>15</b>	<b>0</b>	<b>11</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>38</b>	<b>2</b>	<b>69</b>

## VII. Compliance with Time Limits

- A. Median processing time for requests processed during the fiscal year  
 B. Status of pending requests

	A.1. Simple Requests		A.2. Complex Requests		A.3. Expedited Processing		B. Status of Pending Requests	
	Number processed	Median # of days	Number processed	Median # of days	Number processed	Median # of days	Number pending	Median # of days pending
<b>FAA</b>	5,176	3	1,707	33	40	1	1,334	69
<b>FHWA</b>	277	17	23	50	6	12	49	63
<b>FMCSA</b>	306	56	696	70	31	27	147	39
<b>FRA</b>	0	N/A	449	91	1	6	103	107
<b>FTA</b>	104	19	0	N/A	0	N/A	11	9
<b>MARAD</b>	63	58	0	N/A	2	184	159	121
<b>NHTSA</b>	170	15.5	0	0	0	0	13	19
<b>OIG</b>	15	3	81	390	0	N/A	84	241
<b>OST</b>	107	1	186	401	0	N/A	197	203
<b>PHMSA</b>	0	N/A	27	254	0	N/A	94	200
<b>RITA</b>	44	6	12	20	0	N/A	2	5
<b>SLSDC</b>	17	12	2	64	0	N/A	1	59
<b>Totals</b>	<b>6,279</b>		<b>3,183</b>		<b>80</b>		<b>2,194</b>	

## VIII. Comparisons with Previous Year

**A.** Number of requests received in FY 2006: 8,867

Number of requests received in FY 2007: 9,695 (increase of approximately 9 percent)

**B.** Number of requests processed in FY 2006: 8,758

Number of requests processed in FY 2007: 9,542 (increase of approximately 9 percent)

**C.** Comparison of median number of days requests were pending as of the end of the fiscal year: Varies by component

**D.** Other narrative statements describing agency efforts to improve timeliness of FOIA performance and to make records available to the public.

- The DOT received approximately 208 requests for expedited processing. Of those requests, 80 were afforded expedited processing.
- The majority of DOT FOIA offices actively communicate with requesters via telephone and/or e-mail to effectively refine the scope of their request to better target more efficient searches, as necessary.
- DOT components continue to increase the types and volume of non-sensitive information available to the public on the Internet.

## IX. FOIA Costs / Staffing & X. Fees Collected

A. Staffing Levels

B. Total Costs (including staff and resources)

	IX.A. Number of full- time Personnel	IX.A. Number of Personnel with Part- time or occasional FOIA duties <i>(in total work-years)</i>	IX.A. Total Number of Personnel (In work- years)	IX.B. FOIA processing costs	IX.B. Litigation- related costs	IX.B. TOTAL Costs	X. Fees Collected	X. % of total costs
<b>FAA</b>	19	32.6	51.6	\$4,368,388	\$30,233	\$4,398,621	\$138,526	<b>2.5</b>
<b>FHWA</b>	0	3.9	3.9	\$318,039	\$900	\$318,939	\$18,415	
<b>FMCSA</b>	6	1	7.00	\$555,170	\$7,950	\$563,120	\$14,952	
<b>FRA</b>	1	2.25	3.25	\$255,397	0	\$255,397	\$1,942	
<b>FTA</b>	0	1.29	1.29	\$119,019	0	\$119,019	0	
<b>MARAD</b>	1	1.5	2.5	\$244,035	0	\$244,035	\$905	
<b>NHTSA</b>	2	1.75	3.75	\$336,940	\$25,542	\$362,482	\$4,422	
<b>OIG</b>	1	1.3	2.3	\$235,626	0	\$235,626	0	
<b>OST</b>	3	1.84	4.84	\$435,884	\$114,127	\$550,011	\$829	
<b>PHMSA</b>	1	1.33	2.33	\$189,895	0	\$189,895	\$4,775	
<b>RITA</b>	1	.5	1.5	\$100,815	0	\$100,815	\$375	
<b>SLSDC</b>	0	.185	.185	\$22,756	0	\$22,756	0	
<b>Totals</b>	<b>35</b>	<b>49.445</b>	<b>84.445</b>	<b>\$7,181,964</b>	<b>\$178,752</b>	<b>\$7,360,716</b>	<b>\$185,141</b>	

## XI. DOT FOIA Regulations (including fee schedule) – 49 CFR Part 7

[http://www.dot.gov/foia/regulation\\_foia.html](http://www.dot.gov/foia/regulation_foia.html)

## XII. Report on Executive Order 13392 Implementation

A. Description of supplementation/modification of agency improvement plan (if applicable)

N/A

B. Report on agency implementation of its plan, including its performance in meeting milestones, with respect to each improvement area

The Department is proud of the work we have accomplished in implementing improvements to our FOIA programs. In our major emphasis area of backlog reduction, the Department continued to make excellent progress in closing out FOIA requests from previous fiscal years.

During this reporting period, the Department closed all remaining cases from FY 2000 and earlier. When the Department created its backlog reduction goals, there were 1,005 cases pending from FY 1997 – FY 2005. At this time, only 108 cases during that timeframe remain open, as follows: 1 case from FY 2001, 2 cases from FY 2002, 1 case from FY 2003, 32 cases from FY 2004, and 72 cases from FY 2005. These numbers include all pending cases, including those whose FOIA Improvement Plan deadlines have not yet passed. We will continue our efforts to close out these remaining cases during FY 2008.

FAA's accomplishments in the area of backlog are particularly noteworthy. During this reporting period, FAA was scheduled to close out 350 FOIA requests from FYs 2000 – 2004. Of those 350 requests, FAA was able to close out all but 4 of the requests as scheduled. In addition to those fiscal years with specific backlog goals, FAA had 324 cases from FY 2005 pending at the time the FOIA Improvement Plan was developed. Since that time, FAA has closed out 264 of those cases, leaving only 60 pending. The FAA expects to continue to make excellent progress in closing out these remaining pending cases from previous fiscal years in the coming months.

In the area of electronic FOIA – receiving requests electronically, we are pleased to report that, as scheduled, the remaining DOT FOIA offices (HQ and field) now offer the opportunity to send in FOIA requests electronically.

In the area of information technology-related improvements, the Department is making excellent progress in bringing more components onto “pay.gov,” a system that allows FOIA requesters to make electronic payments of FOIA fees. The components currently accepting electronic payment of FOIA fees are: FAA, FHWA, FMCSA, FRA, FTA, MARAD, NHTSA, OIG, OST, and PHMSA. As previously reported, we committed to making a decision by 12/31/07 regarding the feasibility of adding the two remaining components – RITA and SLS, and we have done so. Although there are complex issues involved in adding RITA, we believe the benefits to our customers outweigh those issues. We plan to have RITA up-and-running with pay.gov by 12/31/08. On the other hand, since SLS receives so few FOIA requests, and those requesters are rarely, if ever, charged fees, we have determined that it is not reasonable to add SLS at this time.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable).

The Department is reporting deficiencies in six areas during this reporting period. The deficiencies are due primarily to two major competing demands on the Departmental FOIA Officer's time. The first was the move of the Department of Transportation to a new building. The Departmental FOIA Officer and her staff spent a great deal of time preparing the office and the files for the move. The actual move of the FOIA office occurred in late June 2007. The entire FOIA office then had to be un-packed and organized. The majority of the Department's components also moved over a several-month period, interfering further with smooth FOIA processing. The second competing demand during the reporting period was the Departmental FOIA Officer's direct involvement and work on a FOIA litigation case. On a court-imposed schedule, the Departmental FOIA Officer was required to personally conduct a line-by-line review of voluminous documents and prepare a comprehensive 280-page Vaughn Index, as well as two declarations.

Note: For future goals described below in the deficiency areas under “remedial actions,” because of the intense workload associated with implementing the 2007 FOIA Amendments during FY 08, the revised target date for many of the goals and milestones is 9/30/09.

### Deficiency Area #1

1. FOIA Improvement Plan area to which the deficient milestone relates.

Affirmative disclosure under subsection (a)(2) and proactive disclosure of information.

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

Conduct a review of the Department’s policies and procedures as they relate to making public information available. Educate the OAs about the requirements of 5 U.S.C. 552 regarding public documents.

- a. Review of OAs’ policies and practices relating to making records described in 5 U.S.C. 552(a)(2) available -- due 3/31/07.
- b. Review of OAs’ policies and practices regarding proactive posting with a focus on discovering best practices – due 3/31/07.
- c. Report to the Chief FOIA Officer -- 4/15/07.
- d. Letter from Chief FOIA Officer to OAs regarding findings – 5/15/07.
- e. Posting the Chief FOIA Officer’s letter on website – 5/31/07.
- f. Review of progress – 11/30/07.
- g. Chief FOIA Officer report progress to OAs – 12/31/07.
- h. Letter to OAs posted on website – 1/15/08.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

In January 2008, the Departmental FOIA Officer developed a strategy for accomplishing this objective. The strategy is shown in item 4 below.

4. Future remedial steps and the dates by which the steps will be completed.

We plan to achieve this objective through a team comprised of representatives from the Departmental FOIA Office, the Office of the General Counsel, the Office of the Chief Information Officer, and various DOT components. We anticipate final action on this goal to be completed by the end of FY 09.

### Deficiency Area #2

1. FOIA Improvement Plan area to which the deficient milestone relates.  
Multi-track processing
2. Deficient milestone and the original target date from the FOIA Improvement Plan.
  - a. Implement a pilot test using multi-tracking best practices in at least one Departmental component by 3/31/07.
  - b. Evaluate the pilot test by 9/30/07.
  - c. Expand multi-tracking best practices, as appropriate, in other Departmental components by 3/31/08.
3. Steps taken to correct the deficiency and the dates by which the steps were completed.  
The initial steps of: (a) reviewing multi-track processes within the Department and (b) reviewing multi-track processes within selected Federal agencies were completed. However, the remaining milestones were put on a temporary hold due to competing demands on the Departmental FOIA Officer's time.
4. Future remedial steps and the dates by which the steps will be completed.  
We anticipate final action on this goal to be completed by the end of FY 09.

### Deficiency Area #3

1. FOIA Improvement Plan area to which the deficient milestone relates.  
Expedited processing
2. Deficient milestone and the original target date from the FOIA Improvement Plan.  
Establish a baseline measurement, then institute expedited processing-related improvement goals by 10/1/07.
3. Steps taken to correct the deficiency and the dates by which the steps were completed.  
Establishment of a baseline measurement and institution of improvement goals was placed on a temporary hold due to competing demands on the Departmental FOIA Officer's time. Implementation of these milestones will now be accomplished in concert with implementation of the expedited processing-related requirements of the 2007 FOIA Amendments.
4. Future remedial steps and the dates by which the steps will be completed.

Our goal is to provide initial Departmental guidance to the Department by 6/30/08, with full implementation and measurement beginning on 10/1/08. Pursuant to the 2007 FOIA amendments, we will begin to measure the time taken to adjudicate each request for expedited processing, as well as the time it takes to respond to those requests.

#### Deficiency Area #4

Department-wide, there were 28 cases (4 cases in FAA and 24 cases in OST) pending from previous fiscal years that were not closed according to schedule.

1. FOIA Improvement Plan area to which the deficient milestone relates.  

Backlog reduction
2. Deficient milestone and the original target date from the FOIA Improvement Plan.
  - a. During this reporting period, FAA was scheduled to close out requests from previous fiscal years as follows:
    - (i) FY 2000 – 22 close-out
    - (ii) FY 2001 – 40 close-outs
    - (iii) FY 2002 – 75 close-outs
    - (iv) FY 2003 – 105 close-outs
    - (v) FY 2004 – 75 close-outs
  - b. During this reporting period, OST was scheduled to close out requests from previous fiscal years as follows:
    - (i) FY 2002 – 2 close-outs
    - (ii) FY 2003 – 6 close-outs
    - (iii) FY 2004 – 38 close-outs
    - (iv) FY 2005 – 51 close-outs
3. Steps taken to correct the deficiency and the dates by which the steps were completed.
  - a. FAA worked diligently to close out all of their targeted cases and were successful in all but four instances (1 from FY01; 1 from FY02; 1 from FY 03; and 1 from FY04).
  - b. OST also worked diligently to close out their targeted cases; however, competing demands on the Departmental FOIA Officer's time prevented the closure of 24 of the targeted cases (1 from FY 02; 11 from FY04; and 12 from FY 05).
4. Future remedial steps and the dates by which the steps will be completed.

The Department's revised goal is to close out these 28 pending requests by the end of this fiscal year (FY08).

Deficiency Area #5

1. FOIA Improvement Plan area to which the deficient milestone relates.

Training

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

- a. Training on FOIA fees by 3/31/07.
- b. Training on Exemption 4 and submitter notices by 6/30/07.
- c. Training on Exemption 3 and the proper application of DOT's exemption 3 statutes by 12/30/07.

3. Steps taken to correct the deficiency and the dates by which the steps were completed.

These three scheduled training classes were not provided due to competing demands on the Departmental FOIA Officer's time.

4. Future remedial steps and the dates by which the steps will be completed.

We anticipate providing these three training sessions, as well as others, as necessary, by the end of FY09. The Departmental FOIA attorney will assist in the development of the training sessions and help ensure that they are completed as scheduled.

Deficiency Area #6

1. FOIA Improvement Plan area to which the deficient milestone relates.

Recycling of improvement information gleaned from FOIA Requester Service Centers and FOIA Public Liaisons

2. Deficient milestone and the original target date from the FOIA Improvement Plan.

- a. Departmental FOIA Officer to meet with the FOIA Requester Service Centers by 3/31/07.
- b. Chief FOIA Officer to meet with the Public Liaisons by 3/31/07.
- c. Chief FOIA Officer and Departmental FOIA Office to discuss improvements to the process by 4/30/07.

- d. Implement improvements by 5/31/07.
3. Steps taken to correct the deficiency and the dates by which the steps were completed.

In the absence of formal meetings, the Departmental FOIA Officer has been informally talking to selected FOIA Requester Service Centers and FOIA Public Liaisons as issues and questions arise. Those discussions are related to the Chief FOIA Officer for her information and involvement, as necessary.

4. Future remedial steps and the dates by which the steps will be completed.
- a. The goal for this meeting is now 4/30/08. The meeting will include a discussion of new responsibilities associated with implementation of the 2007 FOIA Amendments.
  - b. The goal for this meeting is now 4/30/08. The meeting will include a discussion of new responsibilities associated with implementation of the 2007 FOIA Amendments.
  - c. The goal for the follow up meeting is now 5/31/08
  - d. The goal for implementation of improvements is now 6/30/08.

D. Additional narrative statement regarding other executive order-related activities (optional)

N/A

E. Concise descriptions of FOIA exemptions

The nine exemptions to the FOIA allow federal agencies to withhold information covering: (1) classified national defense and foreign relations information; (2) internal agency rules and practices; (3) information that is prohibited from disclosure by another federal law; (4) trade secrets and other confidential business information; (5) inter-agency or intra-agency communications that are protected by legal privileges; (6) information involving matters of personal privacy; (7) records or information compiled for law enforcement purposes, to the extent that the production of those records (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions, or (F) could reasonably be expected to endanger the life or physical safety of any individual; (8) information relating to the supervision of financial institutions; and (9) geological information on wells.

F. Additional statistics

1. Ten Oldest Pending FOIA Requests

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending requests as of January 1, 2008. Please list the requests by date.

Calendar year	2000	2001	2002	2003	2004	2005	2006	2007
Requests		Aug 30	Mar 27 Mar 29	Feb 14 Oct 31 Nov 12 Dec 21	Jan 29 Feb 18 Mar 12			

2. Consultations

(i) Number of consultations received, processed, and pending

Please provide the number of consultations received, processed, and currently pending, in the appropriate column below.

Consultations Received from Other Agencies During FY07	Consultations Received From Other Agencies That Were Processed During FY07 (includes those received prior to FY07)	Consultations Received From Other Agencies That Were Pending at Your Agency as of October 1, 2007 (includes those received prior to FY07)
12	0	25

(ii) Ten Oldest Pending Consultations Received from Other Agencies

Using the template provided below, please list in the appropriate column labeled by year, each of your ten oldest pending consultations received from other agencies as of January 1, 2008. Please list the consultations by the date it was received by your agency.

Calendar year	2000	2001	2002	2003	2004	2005	2006	2007
Consults Received				Oct 7	Aug 18 Aug 18 Aug 18	Mar 11 May 12 May 12 May 16 Jun 22 Jul 8		

**Note:** It is the Department's goal to close out these "10 oldest" consults, plus the remaining 15 pending consults, by the end of this fiscal year. The Department's goal for processing new consults, effective immediately, is 1 month (but no later than 2 months) from date of receipt.

G. Attachment: Agency Improvement Plan (in current form)

The FOIA Action Improvement Plan for the Department of Transportation is attached.