

Federal Maritime Commission

2015 Chief FOIA Officer Report

Name and Title of agency Chief FOIA Officer: Karen V. Gregory, Secretary

Section I: Steps Taken to Apply the Presumption of Openness

FOIA Training:

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

Answer: Yes.

2. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

Answer: 100%

3. In the 2014 Chief FOIA Officer Report Guidelines, OIP asked agencies to provide a plan for ensuring that core, substantive FOIA training is offered to all agency FOIA professionals at least once each year. Please provide the status of your agency's implementation of this plan.

Answer: The plan is fully implemented to allow all FOIA professionals access to annual FOIA training as needed.

Discretionary Disclosures:

4. Does your agency have a distinct process or system in place to review records for discretionary release?

Answer: Yes. Our process for review of records for discretionary release is to release all documents unless there may be confusion or harm caused by disclosure. Our Agency is not decentralized.

5. During the reporting period, did your agency make any discretionary releases of information?

No.

6. What exemption(s) would have covered the material released as a matter of discretion?

Answer: N/A

7. Provide a narrative description, as well as some specific examples, of the types of information that your agency released as a matter of discretion during the reporting year.

Answer: N/A

8. If your agency was not able to make any discretionary releases of information, please explain why.

Answer: The only type of information which would have been potentially appropriate for discretionary release was information protected by the deliberative process privilege, protected from release by exemption (b)(5). The Commission applies the (b)(5) exemption when releasing the information would result in harm or confusion. This year, no discretionary release of such information was found appropriate.

Other Initiatives:

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

Answer: The Commission continues its long history of applying the presumption of openness and is already doing everything that it can ensure an open and transparent government. Administration of the FOIA is centralized and all FOIA requests are processed by the Office of the Secretary and everyone within the Office of the Secretary that processes FOIA requests is fully aware that we process all FOIA requests applying the presumption of openness.

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

Processing Procedures:

1. For Fiscal Year 2014 what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2014 Annual FOIA Report.

Answer: 3.5

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Answer: N/A

Requester Services:

3. Does your agency notify requesters of the mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration?

Answer: Yes.

4. When assessing fees, does your agency provide a breakdown of how FOIA fees were calculated and assessed to the FOIA requester?

Answer: Yes, the invoice provides a full itemized breakdown of fees, including an hourly and categorical breakdown.

5. If estimated fees estimates are particularly high does your agency provide an explanation for the estimate to the requester?

Answer: Yes.

Other Initiatives:

6. If there are any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively, such as conducting self-assessments to find greater efficiencies, improving search processes, eliminating redundancy, etc., please describe them here.

Answer: On multiple occasions throughout the year we self-assess our FOIA business processes to improve efficiency and effectiveness.

Section III: Steps Taken to Increase Proactive Disclosures

Posting Material:

1. Does your agency have a distinct process or system in place to identify records for proactive disclosure? If so, please describe your agency's process or system.

Answer: Yes. The FMC is a very small Agency and our Office not only manages FOIA but also the Agency's formal docket, the Sunshine Act meeting process, issuance of all Commission Orders, and handling of press inquiries. Therefore, we are in a unique position to quickly and easily identify and disclose records proactively – and we do.

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

Answer: Yes. The Chief FOIA Officer and the Agency Webmaster collaborate with Agency staff members from all Commission Offices to maintain the website and post and refresh the most useful information.

3. Describe your agency's process or system for identifying "frequently requested" records that should be posted online.

Answer: The FOIA professional determines if multiple requests have been received for the same information by consulting the FOIA log. If multiple requests have been identified we work directly with the Agency Webmaster to post such information.

4. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material.

Answer: A free, downloadable list of licensed and bonded ocean transportation intermediaries was proactively made available on the Commission's website which now includes location information, bonding information and DBAs. Previously this information was only available on request and a fee was charged for a full copy of the list. <http://www2.fmc.gov/oti/>

Other Initiatives:

5. If there are any other steps your agency has taken to increase proactive disclosures, please describe them here.

Answer: None

Section IV: Steps Taken to Greater Utilize Technology

Making Material Posted Online more Useful:

1. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Answer: Yes

2. If yes, please provide examples of such improvements.

Answer:

- During the reporting period the FMC updated its website navigation to meet evolving user needs and to assist its visitors to find relevant content quickly. The new navigation is the result of customer feedback and an analysis of search results and website traffic.
- As mentioned above detailed information about ocean transportation intermediaries is now available directly from the Commission's website.
- The Commission is developing a plan to upgrade its internet hosting, maintenance and public document repository solution to launch a newly designed website that will be more easily accessible via mobile devices.
- Consumer alerts were published on the website this year to alert the public to avoid particular service providers that were not in compliance with Commission regulations and to assist cruise passengers whose voyages were disrupted. For example, see:
http://www.fmc.gov/princess_cruises%E2%80%99_2-3-2014/?pg=9

If your agency is already posting material in its most useful format, please describe these efforts.

- Provide continuous updates to key public information including website publication of the docketing activity and documents for cases filed before the Commission;
- Provide public access to filed agreements through the FMC's agreement library, accessible through the FMC website; and
- Provide the public with key FMC studies and economic analysis of shipping industry trends when applicable.

3. Has your agency encountered challenges that make it difficult to post records you otherwise would like to post?

Answer: Yes

4. If so, please briefly explain what those challenges are.

Answer: The main impediment to posting documents is the lack of resources that can be devoted to the FOIA program and digitization of certain useful information. However, the Commission is committed to identifying these records and continued expansion and investment in its document repository and imaging program. In this fiscal year, the Commission devoted a new part time resource to the FOIA program and brought full time contractor support in to its document scanning program.

Other Initiatives:

5. Did your agency successfully post all four quarterly reports for Fiscal Year 2014?

Answer: Yes.

6. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful for Fiscal Year 2015.

Answer: N/A

7. Do your agency's FOIA professionals use e-mail or other electronic means to communicate with requesters whenever feasible?

Answer: Yes. The FOIA professional almost exclusively uses email to communicate with requesters unless requesters prefer otherwise.

8. If your agency does not communicate electronically with requesters as a default, are there any limitations or restrictions for the use of such means? If yes, does your agency inform requesters about such limitations?

Answer: N/A

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

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

Answer: Yes.

2. If so, for your agency overall, for Fiscal Year 2014, was the average number of days to process simple requests twenty working days or fewer?

Answer: Yes, the average number of days, as reported in the FY2014 FOIA Annual Report was 9.8.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2014 that were placed in your simple track.

Answer: 30.2%

4. If your agency does not track simple requests separately, was the average number of days to process non-expedited requests twenty working days or fewer?

Answer: N/A

Backlogs:

Backlogged Requests

5. If you agency had a backlog of requests at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

Answer: Yes.

6. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2014. If your agency did not receive any requests in Fiscal Year 2014 and/or has no request backlog, please answer with N/A.

Answer: 32.5%

Backlogged Appeals

7. If your agency had a backlog of appeals at the close of Fiscal Year 2014, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2013?

Answer: Our Agency did not have a backlog of appeals at the close of either fiscal year.

8. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2014. If your agency did not receive any appeals in Fiscal Year 2014 and/or has no appeal backlog, please answer with N/A.

Answer: N/A

Status of Ten Oldest Requests, Appeals, and Consultations

Ten Oldest Requests

9. In Fiscal Year 2014, did your agency close the ten oldest requests that were pending in your Fiscal Year 2013 Annual FOIA Report?

Answer: No.

10. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest requests to close, please indicate that.

Answer: We closed one out of ten "oldest" requests.

11. Of the requests your agency was able to close from your ten oldest, please indicate how many of those were closed because the request was withdrawn by the requester. If any were closed because the request was withdrawn, did you provide any interim responses prior to the withdrawal?

Answer:None

Ten Oldest Appeals

12. In Fiscal Year 2014, did your agency close the ten oldest administrative appeals that were reported pending in your Fiscal Year 2013 Report?

Answer: We did not report any administrative appeals pending in the Fiscal Year 2013 Report.

13. If no, please provide the number of these appeals your agency was able to close, by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2013 Annual FOIA Report. If you had less than ten total oldest appeals to close, please indicate that.

Answer: N/A

Ten Oldest Consultations

14. In Fiscal Year 2014, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2013 Report?

Answer: We did not report any consultations that were pending in our Fiscal Year 2013 Report.

15. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2013 Annual FOIA Report.

Answer: N/A

Additional Information on Ten Oldest Requests, Appeals, and consultations & Plans:

16. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2013.

Answer: Lack of staff resources and difficulty narrowing some FOIA requests with requesters. The requests are complicated and voluminous.

17. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

Answer: N/A

18. If your agency did not close its ten oldest pending requests, appeals, or consultations, please provide a plan describing how your agency intends to close those "ten oldest" requests, appeals, and consultations during the Fiscal Year 2015.

Answer: Apply additional staff resources to support the FOIA program.

Use of FOIA's Law Enforcement Exclusions

Did your agency invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during Fiscal Year 2014?

Answer: No law enforcement "exclusions" were invoked.

If so, provide the total number of times exclusions were invoked?

Answer:N/A