Federal Maritime Commission
2012 Chief FOIA Officer Report

I. Steps Taken to Apply the Presumption of Openness

1. Did your agency hold an agency FOIA conference, or otherwise conduct training during this reporting period?

Although the Federal Maritime Commission (Commission or FMC) did not hold an Agency conference or conduct training during this reporting period, the Office of the Secretary (OS) continues to make every effort to stress the importance of responding to FOIA requests with a clear presumption of openness to all employees. To re-emphasize the commitment to those efforts, the Chief FOIA Officer issued a memorandum to all Commission employees referencing the importance of and linking to the President's FOIA Memorandum and the Attorney General's FOIA Guidelines. The memorandum also outlined the Office of the Secretary's FOIA process to help alleviate concerns Commission employees may have about responding to FOIA requests and the importance of providing responsive documents timely.

2. Did your FOIA professional attend any FOIA training, such as that provided by the Department of Justice?

The Commission's FOIA Professional attended the Department of Justice Office of Information Policy's refresher training session on the reporting requirements for Fiscal Year 2011 Annual FOIA Reports and 2012 Chief FOIA Officer Reports. The FOIA Professional also has requested Advanced FOIA training and both the FOIA Professional and the FOIA Liaison have requested a space in the upcoming FOIA administrative Forum.

3. Did your agency make any discretionary releases of otherwise exempt information?

Yes, during this reporting period, the Commission processed all FOIA requests with an eye towards disclosure whenever possible, balancing the application of an exemption against harm of disclosure.

4. What exemptions would have covered the information that was released as a matter of discretion?

Exemption 5 would have applied to these documents.

5. Describe your FOIA agency's process to review records to determine whether discretionary releases are possible.

 As previously mentioned, if there is no harm in disclosing a document in whole or in part that is not otherwise protected by statute or law, our policy is to release the document in whole or in part.

6. Describe any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied.

The FMC has not undertaken any other initiatives.

7. Did your agency have an increase in the number of responses where records were released in full?

No. Although there was not an increase in records released in full, this is in no way an indication that the Commission is not providing documents with the presumption of openness. During the reporting period, the Commission experienced a drop in the overall number of FOIAs processed which impacted the number of FOIAs processed where records were released in full. See response to Part V(3)(a-d) for a list of contributing factors.

8. Did your agency have an increase in the number of responses where records were released in part?

Yes, the agency had an increase in the number of responses where records were released in part. However, this is in no way an indication that the Commission is not providing documents with the presumption of openness. Since the Commission's FOIA requests are generally all dissimilar, the responsive documents vary as well. The responsive documents during this reporting period had more instances of personally identifiable information (where exemption 6 would apply) than those of the previous reporting period.

II. Steps Taken to ensure that the FMC has an Effective System in Place for Responding to Requests

1. Do FOIA professionals within your agency have sufficient IT support?

Yes.

2. Is there regular interaction between agency FOIA professionals and the Chief FOIA Officer?

Yes.

3. Do your FOIA professionals work with your agency's Open Government Team?

During this reporting period the FOIA Professional did not have a specific reason to work with the Agency's Open Government Team. However, the FOIA Professional has unrestricted access to the Open Government Team.

4. Describe the steps your agency has taken to assess whether adequate staffing is being devoted to FOIA administration.

The FMC is a small agency with less than 125 employees. In these tough economic times, limited budget and staff resources require the Commission to creatively devote resources to FOIA projects as needed. The General Counsel has agreed to assign an attorney to help process FOIAs when needed. Assistance will range from legal research and consultation to actual electronic processing and preparation of documents for release.

5. Describe any other steps your agency has undertaken to ensure that your FOIA system operates efficiently and effectively.

The OS continuously works to improve and streamline our FOIA processes. The Chief FOIA Officer, the FOIA Liaison, and the FOIA Professional work together as a team to implement improvements to internal guidance, outgoing correspondence, document review, tracking, and processing of FOIA requests.

III. Steps Taken To Increase Proactive Disclosures

1. Has your agency added new material to your website since last year?

Yes.

2. Provide examples of the records, datasets, videos, etc., that have been posted this past year.

In the past year numerous documents were added to the Commission's website. A large portion were added to the Commission's Electronic Reading Room where key filings and issuances in all docketed proceedings before Administrative Law Judges or the Commission are posted. These logs are updated on a daily basis. In the past year, several new proceedings were started by the Commission with significant public impact or public input sought. Each was added to the website with high visibility.

In addition, several new, topic-specific pages were added to the website to ease public access to important information, and organized under a new "Featured Topics" webpage. New pages added during the reporting period included: Negotiated Rate Arrangements: Guidance for NVOCCs on Requirements for Exemption from Tariff Rate Publication Requirements, Guidance for how to comply with the FMC's rule for negotiated rate arrangements exempt from tariff rate publication requirements; and Crisis in Vicinity of Fukushima, Japan, FMC regulatory assistance and shipping advisory resources.

3. Describe the system your agency uses to routinely identify records that are appropriate for posting.

Because the Commission is a small agency, the OS is well aware of all new staff work products and undertakings. We operate with a presumption that anything that will be issued or available to the public will be posted on our website as well. As described above, all Commission formal proceedings are logged on the website and a significant volume of information is readily available without a request.

4. Beyond posting new material, is your agency taking steps to make the information more useful to the public, especially to the community of individuals who regularly access your agency's website, such as soliciting feedback on the content and presentation of the posted material, improving search capabilities, providing explanatory material, etc.?

Yes (See Spotlight on Success below).

5. Describe any other steps taken to increase proactive disclosures at your agency.

None.

IV. Steps Taken To Greater Utilize Technology

1. Can FOIA requests be made electronically to your agency?

Yes. The FMC has the capability to receive all FOIA requests electronically.

2. If your agency processes requests on a decentralized basis, do all components of your agency receive requests electronically?
N/A

3. Can a FOIA requester track the status of his/her request electronically?

No.

4. If not, is your agency taking steps to establish this capability?

Yes. The OS is considering the possibility of periodically posting a list of open FOIA requests on our website to enable the requester to see the status of their request. Since the Commission is presently focused on its website redesign project (see Spotlight on Success below), which will, among other things, better organize information and provide faster access to what the public is looking for, FOIA status postings may be delayed until the redesign is complete.

5. Beyond using technology to redact documents, is your agency taking steps to utilize more advanced technology to facilitate overall FOIA efficiency, such as improving record search capabilities, utilizing document sharing platforms for consultations and referrals, or employing software that can sort and de-duplicate documents?

As mentioned in the 2011 Chief FOIA Annual Report, the Commission does not receive the volume of FOIA requests to justify the cost of specialized software to process FOIA requests. Additionally, the Commission does not have the employee resources to develop such technology. However, the Commission's Information Technology Advisory Board, for which the Chief FOIA Officer is a member, will be exploring alternative document sharing/storing platforms for possible future agency consideration.

V. Steps Taken to Improve Timeliness in Responding to Requests and Reduce Backlogs

1. Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for

processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested. If your agency does not utilize a separate track for processing simple requests, answer the question below using the figure provided in your report for your non-expedited requests.

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

No, there was not a separate track for simple requests during calendar year 2011. However, a separate track for simple requests was implemented at the beginning of calendar year 2012.

      b. If so, for your agency overall, for Fiscal Year 2011, was the average number of days to process simple requests twenty working days or fewer?

N/A

      c. 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?

No.

2. Sections XII.D.(2) and XII.E.(2) of your agency's Annual FOIA Report, entitled "Comparison of Numbers of Requests/Appeals from Previous and Current Annual Report –Backlogged Requests/Appeals," show the numbers of any backlog of pending requests for pending appeals from Fiscal Year 2011 as compared to Fiscal Year 2010. You should refer to those numbers when completing this section of your Chief FOIA Officer Report. In addition, Section VII.E, entitled "Pending Requests – Ten Oldest Pending Requests," and Section VI.C.(5), entitled "Ten Oldest Pending Administrative Appeals," from both Fiscal Year 2010 and Fiscal Year 2011 should be used for this section.

      a. If your agency had a backlog of requests at the close of Fiscal Year 2011, did that backlog decrease as compared with Fiscal Year 2010?

No.

      b. If your agency had a backlog of administrative appeals in Fiscal Year 2011, did that backlog decrease as compared to Fiscal Year 2010?

N/A

      c. In Fiscal Year 2011, did your agency close the ten oldest requests that were pending as of the end of Fiscal Year 2010?

Yes.

      d. In Fiscal Year 2011, did your agency close the ten oldest administrative appeals that were pending as of the end of Fiscal Year 2010?

N/A

3. If you answered "no" to any of the above questions, describe why that has occurred. In doing so, answer the following questions then include any additional explanation:

Request Backlog:

a. Was the lack of a reduction in the request backlog a result of an increase in the number of incoming requests?

An increase in the number of FOIAs received during the reporting period contributed to our FOIA backlog . See 3(b-d) for the other contributing factors.

b. Was the lack of a reduction in the request backlog caused by a loss of staff?

Yes, due to an extended and unexpected absence of one staff member, as well as an unexpected separation of an FMC employee from the agency that had been assigned from another office to assist the OS with processing FOIAs. In addition the workload of the OS increased in many areas unrelated to FOIA.

c. Was the lack of a reduction in the request backlog caused by an increase in the complexity of the requests received?

Yes, the complexity of FOIA requests received increased during the reporting period.

d. What other causes, if any, contributed to the lack of a decrease in the request backlog?

An increase of time spent working with requesters to perfect certain FOIA requests with our limited staff resources.

Administrative Appeal Backlog: N/A

All agencies should strive to both reduce any existing backlogs or requests and appeals and to improve their timeliness in responding to requests and appeals. Describe the steps your agency is taking to make improvements in those areas. In doing so, answer the following questions and then also include any other steps being taken to reduce backlogs and to improve timeliness.

1. Does your agency routinely set goals and monitor the progress of your FOIA caseload?

Yes.

2. Has your agency increased its FOIA staffing?

No.

3. Has your agency made IT improvements to increase timeliness?

No.

4. If your agency receives consultations from other agencies, has your agency taken steps to improve the efficiency of the handling of such consultations, such as utilizing IT to share the documents, or establishing guidelines or agreements with other agencies on the handling of particular information to speed up or eliminate the need for consultations?

N/A

Use of FOIA's Law Enforcement "Exclusions"

1. Did your agency invoke a statutory exclusion during Fiscal Year 2011?

No.

2. If so, what is the total number of times exclusions were invoked?

N/A

Spotlight on Success

At the beginning of FY 2012, the Commission kicked-off the 2nd phase of its website redesign project. This phase will significantly improve content organization and render a more citizen-centered website, enhance navigation, and provide more social networking/communications capabilities. Three rounds of usability surveys (for internal and external users) were administered followed by card sorting exercises to capture usability information, navigation pathways, content organization, etc., from actual users of the Commission's website. Based on these survey results, the project team is in the process of re-organizing the website directory structure, and creating six new "audience" webpages that will provide targeted audiences fast and easy access to the information they need to comply with the shipping statutes and regulations, or in the case of the general public, provide access to Commission resources and services. New pages also were designed and added to the Commission's website to better organize Commission Strategies, Budgets, and Performance plans and reports, and to better organize other Commission reports, plans or policies as mandated by government-wide laws and regulations, including FOIA reports, FAIR Act statistics, Plain Writing Plan, etc. As part of this project, a significant amount of existing website content is being reviewed and rewritten under the Commission's Plain Writing Plan and will be presented in a more user-friendly format based on the feedback we've received from the user survey results. Examples of rewritten and repackaged information based on Plain Writing principles and our survey results are the new Consumers Affairs and Dispute Resolution Services and the Household Goods Shipper Resources webpages.

During the reporting period, the Commission also expanded its use of RSS (real simple syndication) feeds by adding this capability to all docket logs and individual docketed proceedings located in the

Electronic Reading Room – providing media, the general public, and parties to proceedings real-time access and notification of new website postings.

In addition, several FMC datasets linked through the Commission's website are now available to the public in several open source file formats including XML and CSV, as well as in accessible PDF format, and MS Excel, an audience-specific file format. These include: information contained in the Commission's Online Agreement Library and List of Licensed Ocean Freight Forwarders and Licensed NVOCCs.