

## FOIA Plan – Exec. Order 13,392

### A. Characterization of NTSB’s FOIA Operations

In order to comply with the requirements of the Freedom of Information Act (FOIA), the National Transportation Safety Board (NTSB) employs two full-time FOIA Specialists and a FOIA Officer, who manage *all* inquiries for information, including FOIA requests. In Fiscal Year 2005, the NTSB received 646 FOIA requests, completed the processing of 326 requests, and had a backlog of 1,394 requests. The NTSB’s FOIA staff primarily processes all Freedom of Information Act requests, to include the segregation and redaction of materials not previously released through the agency’s public docket system.

Once the NTSB’s FOIA Office receives a FOIA request, the Office determines the “track” on which the request should belong:

- Track One—expedited requests, requests that do not meet the Board’s requirements, or requests for which the Board does not have records;
- Track Two—simple requests; or
- Track Three—complex requests involving searches of voluminous records or application of FOIA exemptions.

In brief, the NTSB’s FOIA Office responds to simple requests more quickly than complex requests.

Often, the NTSB receives broad requests for “any and all” records regarding an investigation of a specific transportation accident. Such broad requests are a large source of the NTSB’s backlog: these requests involve searches of voluminous records, many of which contain potentially proprietary information, private information, or information reflecting the NTSB’s deliberative process.

Overall, the NTSB’s current FOIA backlog is the result of several hundred complex requests for records. As such, the NTSB’s review of FOIA operations focused principally on the ways in which the NTSB’s FOIA Office handles complex requests and searches of voluminous records. In addition, the NTSB’s review also examined the NTSB’s overall record retention policies and use of existing resources.

### B. Areas Selected for Review

The NTSB reviewed the following areas in determining how to improve the Board’s FOIA program:

- Use of human capital resources;
- Policies regarding processing of FOIA requests;
- NTSB FOIA regulations;
- Dissemination of information to the public regarding how to make a FOIA request;
- Effectiveness of multi-track processing of records;
- Use of information technology;
- Electronic “reading room” or posting; and
- Backlog reduction.

**C. Summary of Results of Review**

In concluding an intensive review of the areas listed above, the NTSB identified the following needs for improvement.

Use of Human Capital Resources. The FOIA Specialists in the NTSB's FOIA Office became responsible for several more administrative tasks when the Office lost a part-time employee who had performed many administrative duties with regard to FOIA requests. Upon realizing this immediate need for more administrative assistance, the FOIA Officer managing the NTSB's FOIA program arranged for cross-training of the Records Management Division staff to assist in the FOIA administrative tasks.

In addition, the NTSB's review of available resources for FOIA processing indicated that the NTSB was not using additional employees in the most efficient manner. Upon realizing the need for improvement, the NTSB implemented new procedures for the use of these existing resources. Among other changes, the NTSB's FOIA Office trained staff in the Records Management Division to receive and review FOIA requests, and to notify personnel in other NTSB offices who have documents that are within the scope of certain requests.

The NTSB also reviewed the records and items that other offices and employees within the NTSB submit to the FOIA Office in response to the Office's instruction to submit materials responsive to a specific FOIA request. The NTSB recognized a need for practical improvements in the submission of such records. Specifically, the NTSB has decided to establish a revised policy for how investigators and other employees should submit their non-public records to the FOIA Office.

Policy Regarding Processing of FOIA Requests. The NTSB reviewed the agency's policies for FOIA processing. First, the NTSB identified a need for clarification of its criteria for a proper FOIA request. Specifically, the NTSB became aware that the FOIA Office needs additional means to educate the public regarding how to make a proper, specific FOIA request.

The NTSB realized a need for a temporary policy regarding inquiring of requesters who sought documents to determine whether those requesters were still interested in receiving the records they had requested. The majority of the NTSB's FOIA requests are from attorneys who have filed or are defending personal injury, product liability, or similar lawsuits that result from transportation accidents that the NTSB has investigated. Some of these requests are dated, and the requesters no longer need the documents that were the subject of their request, because they have settled or otherwise disposed of these lawsuits. As a result, the NTSB recognized that communicating with requesters to ask whether they would like to withdraw their FOIA requests may result in the closing of some requests, and, thus, a decreased backlog and saved resources.

In addition, the NTSB recognized a need for dealing with FOIA requests for information from a pending investigation. Currently, the NTSB holds such requests open until the pending investigation is complete. The NTSB recognized that a more appropriate means of dealing with such requests, however, is to utilize a combination of applicable, valid FOIA exemptions to deny such requests until the pending investigation

## FOIA Plan – Exec. Order 13,392

at issue is complete. As a result, the NTSB will change this policy with the help of the NTSB's Office of General Counsel.

FOIA Regulations. In reviewing potential areas for improvement, the NTSB recognizes the need to update its FOIA regulations. The NTSB will clarify its requirements for receiving FOIA requests, and educate requesters regarding general NTSB recordkeeping practices and policies. Finally, the NTSB will update the FOIA regulations with regard to fees.

Dissemination of Information to the Public Regarding How to Make a FOIA Request. The NTSB's review of FOIA policies prompted recognition of an area that could improve the NTSB's entire FOIA program greatly: educating the public. Specifically, providing information to the public regarding how to tailor a FOIA request to receive the records needed in an expeditious manner, and how to search for records that are already publicly available. The NTSB's review indicated that requesters often do not review records that are publicly available prior to submitting a FOIA request. Therefore, based on the results of this review, the NTSB plans to take steps to provide helpful information to the public.

Effectiveness of multi-track processing. The NTSB reviewed the FOIA Office's implementation of a multi-track processing system, and concluded that the multi-track system effectively separates simple requests from complex requests. The FOIA Office categorizes each request on its appropriate "track" upon logging the request into the electronic FOIA request database. Such separation works to ensure that requesters receive a response to simple requests, which do not involve reviewing a voluminous amount of records, more quickly than the requesters who submit complex requests. The NTSB concluded that the FOIA Office's use of additional human resources from another office within the Records Management Division for simple requests was helpful. The NTSB also concluded that the agency's FOIA request backlog stems from complex requests.

Use of information technology. The NTSB's review of the use of information technology for FOIA processing and tracking indicated that a new software program would greatly improve the FOIA Office's timeliness in processing requests. Currently, the FOIA Office uses an outdated Microsoft Access database that encounters problems when multiple users access the database. In addition, the database does not provide a simple way of checking the exact amount of all pending requests; therefore, the FOIA Office cannot easily assess the extent of the FOIA request backlog without the assistance of employees in the NTSB's Information Technology Division. Overall, the NTSB concluded that a new software program would help the FOIA Office with regard to logging in and tracking requests.

Electronic reading room or posting of publicly available information. The NTSB's review of the current electronic reading room indicated that the NTSB should include more information in the electronic reading room web page. Currently, the NTSB only provides information from high-profile investigations in the electronic reading room. Including more information in the electronic reading room would likely reduce the

## FOIA Plan – Exec. Order 13,392

number of incoming FOIA requests and provide an organized medium in which the public can access information from investigations.

Backlog reduction. The NTSB’s review of the existing FOIA request backlog indicated that the FOIA Office must take significant steps to reduce the backlog of requests. In addition to acquiring and utilizing human capital resources in different ways, the NTSB will implement new policies regarding responses to FOIA requests for information from pending investigations, and will require the NTSB’s Office of General Counsel to respond to requests more expeditiously.

### D. List of Areas for Improvement

#### 1. Improvement Areas Due by December 31, 2006

- **Reduce backlog** by verifying that certain requesters still seek information that was the subject of their existing FOIA request, and by closing dated requests that involve unique legal questions.
- **Disseminate helpful information to FOIA requesters** by updating the Board’s FOIA website.
- **Change policies regarding processing of FOIA requests** for information from a pending investigation.
- **Acquire additional human capital resources.**
- **Improve use of information technology** by reviewing new FOIA software programs and providing more information in the NTSB’s electronic reading room.

#### 2. Improvement Areas Due by December 31, 2007

- **Disseminate helpful information to FOIA requesters** by updating FOIA regulations.
- **Improve use of human capital resources:**
  - Hold training sessions for all NTSB staff regarding the NTSB’s FOIA procedures.
  - Designate and train internal FOIA contacts in all offices.
  - Designate a new Chief FOIA Officer (upon hiring of a new Chief Information Officer at the NTSB).

#### 3. Improvement Areas Due After December 31, 2007

- **Create new electronic reading room** by updating website to include more information from every investigation.

### E. Description of Each Improvement Area:

#### 1. Improvement Areas Due by December 31, 2006

## FOIA Plan – Exec. Order 13,392

**Reduce backlog** by verifying that certain requesters still seek information that was the subject of their existing FOIA request, and by closing requests that involve unique legal questions.

- *Goal:* Close requests for records where requesters no longer need the records requested, and where requests involve unique legal or policy issues that require the assistance of the NTSB’s Office of General Counsel.
- *Steps:* Identify pending FOIA requests. Where requests are significantly dated, place telephone calls to requesters to ensure that they still seek the records requested. When speaking with requesters, explain records management system, and how to obtain public records in the future. Where requests involve unique legal or policy issues, ask Office of General Counsel to draft response. Close FOIA requests where requester no longer seeks the records requested, and where Office of General Counsel has provided a response.
- *Time Milestones:* By December 29, 2006, call all requesters who sought records before June 1, 2005. Close all requests involving legal or policy issues in Office of General Counsel by August 1, 2006.
- *Measurement of Success:* Evaluate the number of phone calls made by September 1, 2006. Analyze whether calling requesters is helping to reduce backlog, and whether explaining the NTSB’s records management policies to requesters who make frequent requests has been helpful. In addition, closing all requests in Office of General Counsel by August 1, 2006, will indicate success.

**Improve use of information technology** by reviewing new FOIA software programs and providing more information in the NTSB’s electronic reading room.

- *Goal:* Review software programs that will improve FOIA processing, and decide whether any available commercial programs are worthy of purchase; if so, purchase program to better organize FOIA Office personnel’s allocation of time with regard to tracking, organizing, and responding to requests. In addition, provide more information in the NTSB’s electronic reading room by implementing a policy to increase posting of non-docket records (i.e., records not publicly available on the public investigative “docket”) for frequently requested items on the NTSB website.
- *Steps:* Regarding the acquisition of new software: Research vendors who offer software programs specifically designed for FOIA tracking and processing. Invite vendors to visit the NTSB and provide demos of their software programs. Inquire of Chief Financial Officer, and other personnel who have authority to provide funding, regarding available funding. If funding is available, decide which software program will best meet the needs of the Board’s specific FOIA processing requirements. Purchase software program.

## FOIA Plan – Exec. Order 13,392

Regarding changes to electronic reading room: Train investigators on quality-control procedures (i.e., ensuring that all proprietary, personal, or other exempt information appears in the public records for a particular investigation). Discuss procedures for increasing posting of non-docket records on website with FOIA staff. Include all non-docket records from frequently requested items in electronic reading room web page.

- *Time Milestones:* Regarding the acquisition of new software: Depending upon the availability of funding for software, acquire software program by October 1, 2006. Evaluate effectiveness of software program six months after commencing use of the program (April 1, 2007), via a verbal report to Chief FOIA Officer regarding the software. Regarding changes to electronic reading room: Meet with FOIA staff regarding policies for including records in electronic reading room by October 1, 2006. Begin posting non-docket records for frequently requested items in electronic reading room on March 1, 2007.
- *Measurement of Success:* Regarding the acquisition of new software: Upon notification from the Office of the Chief Financial Officer that funding is available for a new software program, the NTSB's principal measurement of success will be obtaining the new program. Thereafter, the FOIA Office will report to the Chief FOIA Officer regarding the effectiveness of the software, what improvements may be necessary, and the degree to which the software is helping reduce the FOIA request backlog. Regarding changes to electronic reading room: The NTSB's principal measurement of success will be ensuring that the NTSB's website is technologically capable of housing a web page for more sets of non-docket information from frequently requested items.

**Acquire additional human capital resources** by obtaining contractor support for requests for information from large investigations.

- *Goal:* Reduce FOIA backlog by reviewing contracting firms that specialize in FOIA processing, and deciding which contracting firm will most significantly reduce the FOIA request backlog within six months. Upon making this decision, hire contractors for a six-month period, subject to extension for additional six-month periods.
- *Steps:* Draft requisite internal agency documents (procurement requests and internal memoranda) and Statement of Work. Publish Statement of Work in order to solicit bids. Evaluate candidates. Hire contractor, and review the contractors' work periodically to ensure continuing reduction in FOIA backlog, especially with regard to requests for records from large investigations.
- *Time Milestones:* Hire contractor by September 1, 2006. Require monthly reports from contractors regarding their progress in reducing backlog, and evaluate effectiveness of contractors after the first six-month period.

Modification 10/31/06 (bottom of page 6 under *Time Milestones*):

By April 1, 2007, reduce the large complex requests received from 1997 – 2005 by 50 percent. By October 1, 2007, complete the remaining large complex requests received from 1997 – 2005.

\*Note: “large complex requests” are requests for information from investigations consisting of 2 or more boxes of non-docket information to review.

## FOIA Plan – Exec. Order 13,392

- *Measurement of Success:* The NTSB’s main measurement of success will be to determine whether, within six months of the commencement of the contract, the NTSB has reduced the number of FOIA requests for records from large investigations by 50 percent. This success will directly influence whether the NTSB hires the contracting firm for additional six-month periods following the end of the contract.

**Change policies regarding processing of FOIA requests** by denying requests for information from a pending investigation in a timely manner.

- *Goal:* Reduce FOIA backlog by implementing a new standard regarding FOIA requests for information from a pending investigation. Specifically, use a combination of exemptions to deny requests for information from a pending investigation, rather than holding requests open until the investigation is closed.
- *Steps:* Discuss new policy with all FOIA personnel. Ensure that all personnel at the NTSB who deal with FOIA requests are aware of the NTSB’s new policy on requests for information from an ongoing investigation. Draft FOIA response that includes an explanation of the NTSB’s new policy. Include FOIA Office’s contact information and encourage requesters to contact FOIA Office if they believe the NTSB has misunderstood their request. Respond to requesters’ telephone inquiries.
- *Time Milestones:* Discuss new policy with all appropriate personnel by July 1, 2006. Draft new response by August 1, 2006. Ensure that FOIA Office has established an appropriate administrative method to deal with such FOIA requests by August 1, 2006. Begin sending new response describing this policy to requesters by September 1, 2006.
- *Measurement of Success:* The NTSB will consider this change as successful if the FOIA Office meets each of the above-listed deadlines. On July 1, 2007, the Board will evaluate the number of pending requests in the FOIA backlog and determine whether this policy change has helped to reduce the backlog of requests.

**Disseminate helpful information to FOIA requesters** by updating the Board’s FOIA website.

- *Goal:* Educate requesters on how to request documents under the FOIA in a way in which they will receive records more expeditiously.
- *Steps:* Draft language for new web page, and sample language for a FOIA request. Discuss new web page text with Office of General Counsel. Proofread draft to ensure that all information on the web page is accurate and easy to understand. Publish web page.



## FOIA Plan – Exec. Order 13,392

- *Time Milestones:* Draft all text by September 1, 2006. Discuss text with appropriate management at the NTSB (Office of General Counsel) by September 15, 2006. Proofread and revise draft as necessary by October 1, 2006. Publish web page by October 1, 2006.
- *Measurement of Success:* The NTSB will consider this change as successful if the FOIA Office meets each of the above-listed deadlines, and receives correspondence and inquiries from requesters regarding the NTSB's record-keeping system and how to tailor their request(s).

### 2. Improvement Areas Due by December 31, 2007

#### Update FOIA regulations.

- *Goal:* Educate requesters regarding the NTSB's recordkeeping system, and update regulations with changes regarding the NTSB's requirements for a proper FOIA request. Publish these regulations on the NTSB's new FOIA website, in order to ensure that FOIA requests meet all the NTSB's requirements.
- *Steps:* Draft regulations, and discuss with appropriate personnel in Office of General Counsel. After discussion, finalize regulations. Publish in Federal Register for notice and comment. Respond to comments and declare regulations effective.
- *Time Milestones:* Draft new FOIA regulations by August 1, 2006. Consider re-codifying regulations (and other administrative issues regarding the regulations) by September 1, 2006. Discuss regulations with appropriate management personnel (Office of General Counsel) by October 1, 2006. Finalize regulations by November 1, 2006. Publish regulations for notice and comment in Federal Register by January 2, 2007. Pursuant to 5 U.S.C. § 553(d), respond to comments and set forth regulations as effective by February 2, 2007.
- *Measurement of Success:* The NTSB will consider this change successful if the FOIA Office and Office of General Counsel meet the deadlines listed above. The NTSB's FOIA Officer and personnel in Office of General Counsel will meet on July 1, 2007, to determine whether the new regulations have helped in reducing the backlog and/or instigating FOIA requesters to clarify and/or narrow their requests.

**Improve use of human capital resources** by holding training sessions for all NTSB staff regarding the NTSB's FOIA procedures.

- *Goal:* Train all NTSB staff on new FOIA policy regarding record retention policies, requirements of the FOIA, and how to organize items uniformly to allow increased efficiency in FOIA processing.

## FOIA Plan – Exec. Order 13,392

- *Steps:* Staff from both the FOIA Office and Office of General Counsel will meet and develop an outline for FOIA training in all offices, as well as materials to hand out to all trainees. Designated staff will schedule training meetings with all modal offices. Then, staff will schedule training meetings with all non-modal offices, such as Human Resources, Transportation Disaster Assistance, Office of the Chief Financial Officer, Office of the Executive Secretariat, and the like. The new requirements for submission of items responsive to requests will become effective immediately after the training, unless exceptional circumstances exist.
- *Time Milestones:* Train all modal offices by February 1, 2007. Train all non-modal offices by August 1, 2007. In addition, the FOIA Office will evaluate all offices' compliance with the new requirements by December 1, 2007, and address any non-compliance issues by December 15, 2007.
- *Measurement of Success:* Completion of training in accordance with the above-listed deadlines will indicate that the FOIA Office has successfully achieved this goal. The FOIA Office staff and Office of General Counsel staff will meet by January 2, 2008, to examine how effective the training was with regard to increasing the efficiency of FOIA processing.

**Improve use of human capital resources** by publishing internal NTSB Operations Bulletin setting forth requirements for submitting non-public items to the FOIA Office.

- *Goal:* With regard to NTSB employees' submission of non-public items to the FOIA Office, set forth requirements discussed in training sessions by way of an NTSB Operations Bulletin and updated internal web page. This goal should accompany the goal listed above regarding the training of investigators. Promulgating an Operations Bulletin and updating the NTSB's internal FOIA web page will provide clear, written guidance for all NTSB employees, and will provide a reference tool for managers and directors of offices, to ensure compliance. The Operations Bulletin and internal web page will set forth a standard organization structure for submitting non-public items, and will provide steps that each investigator-in-charge must follow in order to ensure that they have collected all items that are potentially responsive to the request at issue. Overall, implementing an Operations Bulletin and updating the NTSB's internal FOIA web page will shift some organizational duties to the employees who are most familiar with the records, and thereby increase the efficiency of the FOIA Specialists in the FOIA Office.
- *Steps:* Staff from both the FOIA Office and Office of General Counsel will meet to discuss the items that the Operations Bulletin and internal web page must include. Staff will develop a draft of this Operations Bulletin and internal web page, and discuss and finalize the drafts with the NTSB's General Counsel (GC), Chief Information Officer (CIO), and staff from the NTSB's Managing Director's Office, as needed. The CIO will approve and publish the internal web page and submit the final Operations Bulletin to the NTSB internal website, as well as

## FOIA Plan – Exec. Order 13,392

notify agency employees of the new Operations Bulletin via an “all-hands” e-mail.

- *Time Milestones:* Staff from the FOIA Office and Office of General Counsel will develop a draft Operations Bulletin and internal web page regarding FOIA procedures by August 1, 2006. The GC and/or CIO will discuss this bulletin with the staff by September 15, 2006, and finalize the Bulletin by December 15, 2006. The GC and/or CIO will ensure that the Bulletin has been distributed and published, in accordance with standard NTSB procedure, by February 1, 2007.
- *Measurement of Success:* Completion of training in accordance with the above-listed deadlines will indicate that the FOIA Office has successfully achieved this goal. The FOIA Office staff and Office of General Counsel staff will meet on January 1, 2008, to examine the effect of the Operations Bulletin (in conjunction with the training) with regard to increasing the efficiency of FOIA processing.

**Improve use of human capital resources** by designating and training internal FOIA contacts in all offices.

- *Goal:* Designate one person in each investigative office to serve as the central administrative point of contact for all inquiries regarding obtaining records that are responsive to FOIA requests. Each point of contact will be familiar with each employee’s duties within the office, and know where to direct and how to handle each inquiry from the FOIA Office regarding the office’s records that may be responsive to a FOIA request. In addition, such points of contact will be required to stay informed of all correspondence between an office employee and staff in the FOIA Office, and assist with organizing responsive documents and sending documents to the FOIA Office in accordance with the deadline established by the FOIA Office.
- *Steps:* Select employees to be central potential points of contact in each office. Meet with each designated person and explain that they will be responsible for fielding inquiries from the FOIA Office regarding responsive documents, and ensure that each person knows the requirements of the FOIA and the importance of timely submission of responsive documents. Instruct each designated person to inform all employees in his or her office of the role of a central point of contact. Provide ongoing training to all staff who are central points of contact as necessary.
- *Time Milestones:* Inform all office managers of plan to designate central points of contact for FOIA requests by September 1, 2006. Designate each point of contact by October 1, 2006. Formulate outline for training sessions with these points of contact by December 1, 2006. Meet with all points of contact to explain FOIA requirements and policies by January 15, 2007. Instruct points of contact to notify all employees in their office of their position as the FOIA point of contact by February 1, 2007. Meet with all points of contact in non-modal offices by

## FOIA Plan – Exec. Order 13,392

April 1, 2007, and instruct all points of contact to notify all employees in their office of their position as the FOIA point of contact by April 15, 2007.

- *Measurement of Success:* The NTSB will consider this change successful if the FOIA Office meets the deadlines listed above. The FOIA Office will inquire of all points of contact on June 1, 2007, regarding their experiences with this new structure, and evaluate whether this change has assisted in simplifying and increasing the efficiency of FOIA processing.

**Improve use of human capital resources** by designating a new Chief FOIA Officer (upon the hiring of a new Chief Information Officer at the NTSB).

- *Goal:* Hire a new Chief Information Officer (CIO) at the NTSB, and designate this new CIO as the Chief FOIA Officer.
- *Steps:* Interview candidates. Select candidate. Complete human resources and OPM paperwork. Familiarize new CIO with FOIA Office and FOIA policies. Name new CIO as the NTSB’s Chief FOIA Officer. Inquire about new potential areas for improvement.
- *Time Milestones:* Select new CIO candidate by December 1, 2006. Familiarize new CIO with FOIA policies and name new CIO as Chief FOIA Officer by April 1, 2007.
- *Measurement of Success:* The NTSB will consider this change successful if the appropriate NTSB management offices meet the deadlines listed above.

### 3. Improvement Areas Due After December 31, 2007

**Create new electronic reading room** by updating website to include a separate web page for records that NTSB investigators considered during investigations of certain accidents

- *Goal:* Increase amount of information available to the public by expanding electronic reading room to include public docket materials for all types of investigations. The NTSB anticipates that this change will significantly decrease the amount of FOIA requests the NTSB receives. In addition, this change will provide the public with the information they seek in the absence of filing a FOIA request, thereby fulfilling a principal objective of Executive Order 13,392. In order to decrease the amount of time and administrative overhead for this improvement, the NTSB will not work “backwards” on this goal unless the NTSB’s FOIA Office indicates that such a change is feasible; instead, the FOIA Office will set a specific date on which to enact a policy for uploading the items on the new web page, and move “forward” from that date. This goal is separate from the goal listed above regarding the inclusion of non-docket information available in the electronic reading room, as it involves information from all types

