

Freedom of Information Act (FOIA) Annual Report

FY 2007

National Capital Planning Commission

Dated: January 16, 2008

I. Basic Information Regarding Report

A. Name, title, address, and telephone number of person(s) to be contacted with questions about the report.

Lois Schiffer, General Counsel
Chief FOIA Officer and Public Liaison for FOIA
National Capital Planning Commission
401 -9th Street, NW North Lobby 5th Floor
Washington, DC 20004
Telephone: 202-482-7223
Lois.Schiffer@ncpc.gov

B. Electronic address for report on the World Wide Web.

See http://www.ncpc.gov/UserFiles/File/PDF_files/FOIA-2007ReportFinal%20_.pdf

C. How to obtain a copy of the report in paper form.

Contact Chief FOIA Officer at the address, telephone number, or email address listed above.

II. How to Make a FOIA Request

A. Names, addresses, and telephone numbers of all individual agency components and offices that receive FOIA requests.

See <http://www.ncpc.gov/privacy/>

Send requests to: National Capital Planning Commission
401 – 9th Street, N.W. North Lobby 5th Floor
Washington, D.C. 20004
Attn.: Chief FOIA Officer
Telephone: 202-482-7223
E-mail: Lois.Schiffer@ncpc.gov.

B. Brief description of the agency's response-time ranges.

NCPC responded to all FY 2007 requests within a few days of receipt. Median number of business days was 2; average time was 3.2 business days; and in no event did NCPC exceed 11 business days in responding.

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

All requests were granted unless NCPC had no responsive documents.

III. Definitions of Terms and Acronyms Used in the Report (to be included in each report)

A. Agency-specific acronyms or other terms.

None.

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 are also treated as FOIA requests. (All requests for access to records, regardless of which law is cited by the requester, are included in this report.)
2. Initial Request -- a request to a federal agency for access to records under the Freedom of Information Act.
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 Freedom of Information Act, 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 simple requests requiring relatively minimal review are placed in one processing track and more voluminous and complex requests are placed in one or more other tracks. Requests in 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 -- an agency will process a FOIA request on an expedited basis when a requester has shown an exceptional need or urgency for the records which warrants prioritization of his or her request over other requests that were made earlier.
7. Simple request -- a FOIA request that an agency using multi-track processing places in its fastest (non-expedited) track based on the volume and/or simplicity of records requested.
8. Complex request -- a FOIA request that an agency using multi-track processing places in a slower track based on the volume and/or complexity of records requested.
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, deleting information determined to be exempt under one or more of the FOIA's exemptions; or a decision to disclose some records in their entireties, 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's exemptions, or for some procedural reason (such as because no record is located in response to a FOIA request).
12. Time limits -- the time period in the Freedom of Information Act for an agency to respond to a FOIA request (ordinarily 20 working days from proper receipt of a "perfected" FOIA request).
13. "Perfected" request -- a FOIA request for records which adequately describes the records sought, which has been received by the FOIA office of the agency or agency component in possession of the records, 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 subsection (b)(3).
15. Median number -- the middle, not average, number. For example, of 3, 7, and 14, the median number is 7.
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

A. List of Exemption 3 statutes relied on by agency during current fiscal year (FY 2007).

None.

1. Brief description of type(s) of information withheld under each statute. n/a.

2. Statement of whether a court has upheld the use of each statute. If so, then cite example. n/a (I am not aware of any NCPC FOIA decision that has been challenged by lawsuit.)

V. Initial FOIA/PA Access Requests

A. Numbers of initial requests.

• Total of the numbers in Lines 1 and 2, minus the number in Line 3, should equal the number in Line 4.

1. Number of requests pending as of end of preceding fiscal year ____0 requests)_____

2. Number of requests received during current fiscal year __13_____

3. Number of requests processed during current fiscal year _13_____

4. Number of requests pending as of end of current fiscal year ____0.

(Enter this number also in Line VII.B.1.)

B. Disposition of initial requests.

1. Number of total grants ____8__(note- for 5 requests we had no responsive documents)._____

2. Number of partial grants __0_____

3. Number of denials _____0_____

a. number of times each FOIA exemption used

(counting each exemption once per request) - n/a (see above).

(1) Exemption 1 _____0_____

(2) Exemption 2 _____0_____

(3) Exemption 3 _____0_____

(4) Exemption 4 _____0_____

(5) Exemption 5 _____0_____

(6) Exemption 6 _____0_____

(7) Exemption 7(A) _____0_____

(8) Exemption 7(B) _____0_____

(9) Exemption 7(C) _____0_____

(10) Exemption 7(D) _____0_____

(11) Exemption 7(E) _____0_____

(12) Exemption 7(F) _____0_____

(13) Exemption 8 _____0_____

(14) Exemption 9 _____0_____

4. Other reasons for nondisclosure (total) _____0_____

a. no records _____5_____

b. referrals _____0_____

c. request withdrawn _____0_____

d. fee-related reason _____0_____

e. records not reasonably described _____0_____

f. not a proper FOIA request for some other reason _____0_____

g. not an agency record _____0_____

h. duplicate request _____0_____

i. other (specify) _____0_____

VI. Appeals of Initial Denials of FOIA/PA Requests

A. Numbers of appeals.

1. Number of appeals received during fiscal year _____0_____

2. Number of appeals processed during fiscal year _____0_____

B. Disposition of appeals. – n/a

1. Number completely upheld _____0_____

2. Number partially reversed _____0_____

3. Number completely reversed _____0_____

a. number of times each FOIA exemption used (counting each exemption once per appeal)

(1) Exemption 1 _____0_____

(2) Exemption 2 _____0_____

(3) Exemption 3 _____0_____

(4) Exemption 4 _____0_____

(5) Exemption 5 _____0_____

(6) Exemption 6 _____0_____

(7) Exemption 7(A) _____0_____

(8) Exemption 7(B) _____0_____

(9) Exemption 7(C) _____0_____

(10) Exemption 7(D) _____0_____

(11) Exemption 7(E) _____0_____

(12) Exemption 7(F) _____0_____

(13) Exemption 8 _____0_____

(14) Exemption 9 _____0_____

4. Other reasons for nondisclosure (total) 0
- a. no records 0
 - b. referrals 0
 - c. request withdrawn 0
 - d. fee-related reason 0
 - e. records not reasonably described 0
 - f. not a proper FOIA request for some other reason 0
 - g. not an agency record 0
 - h. duplicate request 0
 - i. other (specify) 0

VII. Compliance with Time Limits/Status of Pending Requests

A. Median processing time for requests processed during the year. –

1. Simple requests (if multiple tracks used) (note – NCPC does not have a “track” system. All requests are listed under “simple requests”):

- a. number of requests processed 13
- b. median number of days to process 2

2. Complex requests (specify for any and all tracks used) (for NCPC, all requests listed under “simple requests”).

- a. number of requests processed 0
- b. median number of days to process 0 calendar days

3. Requests accorded expedited processing.

- a. number of requests processed 0
- b. median number of days to process 0

B. Status of pending requests.

1. Number of requests pending as of end of current fiscal year _____ 0 _____
2. Median number of days that such requests were pending as of that date ___n/a___

VIII. Expedited processing.

A. Number of requests accorded expedited processing.

1. Number received _____ 0 _____
2. Number granted ___ 0 ___

IX. Costs/FOIA Staffing

A. Staffing levels.

1. Number of full-time FOIA personnel _____ 0 _____
2. Number of personnel with part-time or occasional FOIA duties (in total work-years) _____ .2% _____
3. Total number of personnel (in work-years) _____ .2% _____.

B. Total costs (including staff and all resources).

1. FOIA processing (including appeals) ___Unknown—not separately calculated by agency_____
2. Litigation-related activities (estimated) ___ 0 _____
3. Total costs ___ - Unknown – Not separately calculated by agency_____

X. Fees

• This includes charges for search, review, document duplication, and any other direct costs permitted under agency regulations.

- A. Total amount of fees collected by agency for processing requests _____ 0 _____
- B. Percentage of total costs ___ unknown – we did not calculate total costs.

XI. FOIA Regulations (Including Fee Schedule)

NCPC FOIA regulations appear at 1 CFR Part 546, available electronically at:

http://a257.g.akamaitech.net/7/257/2422/11feb20051500/edocket.access.gpo.gov/cfr_2005/janqtr/pdf/1cfr456.2.pdf.

http://a257.g.akamaitech.net/7/257/2422/11feb20051500/edocket.access.gpo.gov/cfr_2005/janqtr/pdf/1cfr456.4.pdf.

XII. Report on Executive Order 13392 implementation.

On December 14, 2005, the President issued Executive Order 13,392, entitled "Improving Agency Disclosure of Information," which established a "citizen-centered" and "results-oriented" approach to administration of the Freedom of Information Act. The Executive Order required each agency to conduct a review of its FOIA operations, to develop an agency-specific plan to improve its administration of the Act, and to include in its annual FOIA report a description of its progress in meeting the milestones and goals established in its improvement plan. This section of the annual FOIA report contains NCPC's description of its progress in implementing the milestones and goals of the agency's FOIA Improvement Plan. The reporting period for Section XII is different from that used for the rest of this report, which is based on data compiled for Fiscal Year 2007. The reporting period for this section concerning Executive Order implementation activities includes progress made through December 2007. This section of the report follows the format set forth by the Department of Justice in its Guidance and Supplemental Guidance.

A. Description of supplementation/modification of NCPC Improvement Plan (if applicable). NCPC has not supplemented or modified its Plan.

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

NCPC has completed the steps in its FOIA Improvement Plan, and has now met all substantive milestones. It will continue to improve its website and to monitor handling of FOIA requests.

1. Website/electronic availability of information to public. NCPC's improvement plan included four steps on this topic, and all have now been completed. Since our last report, NCPC is now posting on its website promptly after each commission meeting the Commission Orders from that meeting and the documents relevant to the Commission action item; and has increased the amount of historic material maintained electronically on the agency's website. Most recently, as described in the Plan, we have shown the

website to a selected group of consumers to evaluate results, and the response is generally favorable.

2. Improved data for staff: NCPC has reported in earlier reports on the completion of these milestones.

3. Improve logging and tracking: NCPC has reported in earlier reports on the completion of this milestone.

4. Politeness training. NCPC has reported in earlier reports on the completion of this milestone.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable). NCPC reported in its Fiscal Year 2006 annual FOIA report that it had three deficiencies; as it reported in its Updated Status Report, it remedied all these deficiencies as of the date of that report of July 25, 2007. Moreover, NCPC has no additional deficiencies. Thus as of this 2007 annual FOIA report, NCPC has met all milestones and goals in the NCPC FOIA Improvement Plan.

D. Additional narrative statements regarding other Executive Order-related activities (optional). NCPC has nothing to report.

E. Concise description of FOIA Exemptions (NCPC has copied this section from the Department of Justice 2006 Annual Report): “The nine exemptions to the FOIA authorize 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 as of January 1, 2008. NCPC had no pending FOIA requests as of January 1, 2008.

2. Consultations.

a.) Number of Consultations Received, Processed, and Pending. During FY 2007, NCPC received no consultations from other agencies, has thus processed no consultation requests, and has no consultation requests pending as of the date of this report.

b.) Ten Oldest Pending Consultations Received From Other Agencies. As of January 1, 2008, NCPC has no pending consultation requests from other agencies.

G. Agency Improvement Plan: The NCPC FOIA Improvement Plan is at the following website:

<http://www.ncpc.gov/UserFiles/File/NCPC'sExecutiveOrder13392ImplementationPlan.pdf>.