

Chief FOIA Officer Report for Federal Maritime Commission

I: Steps Taken to Apply the Presumption of Openness

1. Description

The Federal Maritime Commission (Commission), as a small agency with only 122 FTEs, has in place a policy to administer all FOIA requests with a clear presumption in favor of disclosure. The Secretary of the Commission (Chief FOIA Officer) or the Assistant Secretary personally review and sign all FOIA responses to ensure that the requester has been provided documents that have been released to the fullest extent allowable under the FOIA. The Office does not keep statistics on discretionary disclosures as the fullest disclosure possible has long been the policy of the FOIA Officer. For example, records for which exemption 5 deliberative process protection might apply, are redacted carefully leaving headers, footers and any factual or deliberative content which is separable and in the public interest to release.

2. Disclosure Comparisons

The total number of FOIAs released in part during FY 2009 was five. The total number of FOIAs released in full during FY 2009 was four. The total number of FOIAs released in part during FY 2008 was zero. The total number of FOIAs released in full during FY 2008 was zero. It should be noted that due to the retirement of the Chief FOIA Officer in 2007 and shifting of critical staff, staff time dedicated to processing FOIAs in FY 2008 was significantly reduced. While the number of FOIA requests processed in this category i.e., records “released in full or where records have been released in part” were greater in FY 2009 as compared to the number of FOIAs processed in this category during FY 2008, the Commission has a long history of processing and responding to all FOIA requests with a presumption of openness and disclosure whenever possible under the FOIA.

II: Steps taken to ensure that Your Agency has an Effective System for Responding to Requests

Describe here the steps your agency has taken to ensure that your system for responding to requests is effective and efficient. This should include a discussion of how your agency addressed the key roles played by agency personnel who work with FOIA professionals, including steps taken to ensure FOIA professionals have sufficient IT support.

In light of President Obama’s increased emphasis on openness in government, to ensure that the Commission’s system for responding to FOIA requests was effective and efficient, in FY 2009, the Commission again reviewed and modified its FOIA program to address new government-wide requirements, for example, FOIA tracking number system. It also reviewed its FOIA program to address the loss of a number of key agency FOIA professionals.

To minimize program disruption, transfer institutional knowledge, and ensure clear and consistent processing of FOIA requests received by the Commission, standard operating procedures (SOPs) were

updated, and where necessary, newly created. These procedures are used by the FOIA professionals within the Office of the Secretary, who are directly involved in processing FOIA requests. It also reviewed its FOIA program to address the loss of a number of key agency FOIA professionals.

Processes were further streamlined to reduce processing time and electronic communication tools (internal and external email) were further leveraged to more quickly communicate with FOIA requestors and agency personnel. The Commission's Office of Information Technology has been able to support FOIA professionals by providing assistance in downloading large numbers of applicable database and spreadsheet documents onto CDs in response to FOIA requests.

III: Steps Taken to Increase Proactive Disclosure

Describe here the steps your agency has taken to increase the amount of material that is available on your agency's website, including providing examples of proactive disclosures that have been made since issuance of the new FOIA guidelines.

On an ongoing basis, the FMC reviews and updates information posted to its website and evaluates new information to be proactively disclosed and posted. To assist the Commission in converting paper documents to electronic format appropriate for website posting, the Commission supplements its limited resources by contracting for these scanning services.

Examples of proactive disclosures that have been made through the Commission's website since issuance of the new FOIA guidelines include: the Passenger Vessel Financial Responsibility Notice of Inquiry webpage; Los Angeles/Long Beach Ports Agreements press releases and statements webpage; and new statistics detailing the number and types of filings made to the Commission's Service Contract Filing System (SERVCON). SERVCON is a secure automated filing system used by common carriers to confidentially file service contracts, service arrangements, and associated amendments. In making this statistical data readily available electronically, the Commission anticipates that the information will be useful to its stakeholders, industry press, and the general public. Responsive to prior requests from the public, for example, data could be used as the basis for developing trend analysis on changes in filing activity or to support industry news articles.

IV: Steps Taken to Greater Utilize Technology

1. Does your agency currently receive requests electronically? Yes. The Commission has an email box FOIA@fmc.gov for receipt of FOIA requests.
2. If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically? N/A
3. Does your agency currently track requests electronically? Yes. The Commission utilizes a table to track the status of FOIAs by Fiscal Year.
4. If not, what are the current impediments to your agency utilizing a system to track requests electronically? N/A
5. Does your agency use technology to process requests? No.

6. If not, what are the current impediments to your agency utilizing technology to process requests?

The Commission has not found it cost effective to purchase FOIA processing software, while we do use resources at our disposal to electronically process requests. Limited Commission budget and staff resources require the Commission to creatively and selectively find ways to improve FOIA processing. Currently the review and redacting process of processing FOIA requests is done manually. Given the relatively low number of FOIA requests received annually and the automated skill levels of previous FOIA professionals, this has been adequate to meet our needs. However, during last fiscal year the Commission saw an increase in the number and complexity of certain FOIA requests. To address this change and further automate our FOIA process, during 2010 the Commission anticipates finding ways to leverage its current electronic document scanning technology to assist new FOIA professionals in reviewing and redacting documents responsive to FOIA requests.

7. Does your agency utilize technology to prepare your agency Annual FOIA Report? No.

8. If not, what are the current impediments to your agency utilizing technology in preparing your Annual FOIA Report?

Currently, the Commission does not receive the volume of FOIA requests to justify the expense of purchasing software to prepare the Annual FOIA Report. Additionally, the Commission does not have the employee resources to develop technology to electronically prepare the Annual FOIA report.

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

1. Backlog Status

Our backlog has remained relatively flat; eleven in FY 2008 and twelve in FY 2009. The oldest pending request from the FY2008 FOIA report was 8/21/07 the oldest pending request from the FY2009 FOIA report was 11/21/07. As noted below, the Commission experienced a significant increase in the number and complexity of FOIA requests during FY 2009. At the same time, a number of key FOIA professionals were lost due to an agency reorganization and retirements. New FOIA staff have received FOIA training, and all outstanding issues or questions related to processing backlogged FOIA's have been discussed with the DOJ help line staff for clarification and consistent processing. As there are some common issues on proper release of records for many of our backlogged FOIAs, now that we have processing questions resolved, a large portion of these FOIA responses will be issued in the very near future. How we have resolved these issues will be further documented in our internal SOPs for future reference.

2. Backlog Reduction Steps

The Commission experienced a backlog due to the significant increase in the number and complexity of FOIA requests received last fiscal year and a change in FOIA personnel due to a retirement and Commission reorganization. There has been an initial delay due to the learning curve and training of new employees. In an effort to reduce the backlog, the Office of the Secretary has increased the manpower devoted to responding to FOIA requests, sent four staff members to two-day DOJ training and has streamlined procedures.

3. Steps to Improve Timeliness

The process of electronically scanning/imaging Commission records is ongoing. This process assists the staff in the search and production of documents which should result in an improved response time. Also, the Office of the Secretary has recently standardized FOIA correspondence and streamlined internal office FOIA procedures. New office personnel have received FOIA training and are assisting to reduce our backlogged FOIA requests.