U.S. Department of Transportation

Chief FOIA Officer Report

March 2016

Chief FOIA Officer: **Judith S. Kaleta**
                      Deputy General Counsel

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I am pleased to show in this seventh annual Chief FOIA Officer Report that the Department of Transportation (DOT or Department) continues its commitment to: (1) applying the presumption of openness, (2) ensuring that DOT has an effective system in place to respond to FOIA requests, (3) making proactive disclosures, (4) using technology to increase the timeliness of our disclosures, and (5) reducing backlogs.

This report covers the period of March 2015 to March 2016. Statistical information related to backlogs is based on data from DOT's FY 2015 statistical annual FOIA report.

DOT's FOIA Structure

As DOT's Chief FOIA Officer, I am responsible for providing high-level oversight and support to the Department's FOIA programs, and I recommend adjustments to agency practices, personnel, and funding as may be necessary to improve FOIA administration. The DOT-wide FOIA Office, housed within the Office of the General Counsel, provides direction, leadership, guidance, and assistance to the FOIA offices throughout DOT. This office hosts a monthly DOT-wide meeting for our FOIA offices and coordinates the overall FOIA Annual Report for the Department, as well as the Chief FOIA Officer Report. The DOT FOIA Officer also serves as the FOIA Officer for the Office of the Secretary of Transportation (OST).

The following chart shows the DOT components that receive and respond to FOIA requests, along with the number of requests each received in FY 2015:

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2015
FAA	Federal Aviation Administration	9,636
FHWA	Federal Highway Administration	361
FMCSA	Federal Motor Carrier Safety Administration	1,510
FRA	Federal Railroad Administration	535
FTA	Federal Transit Administration	281
MARAD	Maritime Administration	105

DOT Component Acronym	DOT Component Name	Number of Requests Received in FY 2015
NHTSA	National Highway Traffic Safety Administration	262
OIG	Office of the Inspector General	103
OST	Office of the Secretary of Transportation	366
PHMSA	Pipeline and Hazardous Materials Safety Administration	187
SLSDC	Saint Lawrence Seaway Development Corporation	28

During FY 2015, DOT expended a total of 77.2 staff-years of effort on its FOIA program, which included the work of 32 full-time FOIA staff. The remaining 45.2 staff-years of effort includes part-time FOIA professionals, contractors who worked full-time for less than the full year, program office staff who searched for records, attorneys and managers who reviewed records, and administrative personnel providing support.

Many components, including FMCSA, FRA, FTA, MARAD, NHTSA, OIG, PHMSA, and SLSDC, have centralized programs, where FOIA activities are conducted by a single FOIA office. These centralized FOIA offices obtain records from their various program offices, review the documents, and make determinations regarding release of the documents. The OST's FOIA activities are primarily handled by the headquarters FOIA office; however, one field office (Volpe National Transportation Systems Center in Cambridge, Massachusetts), responds directly to FOIA requests for its records.

For FAA and FHWA, FOIA activities are shared among numerous field and headquarters program offices. Each of the decentralized offices receives FOIA requests, searches for records, reviews records, and makes releasability determinations. Even in these decentralized programs, there is an office at headquarters that oversees the implementation of the FOIA.

The DOT has a FOIA Public Liaison for each DOT component. FOIA requesters can raise concerns to the FOIA Public Liaisons about service they have received from the FOIA offices. The FOIA Public Liaisons report to the Chief FOIA Officer on their FOIA liaison-related activities.

Overview of FY 2015 Data

During FY 2015, DOT processed 12,681 FOIA requests. In over 77 percent (or 9,834) of the 12,681 cases processed, records were located and a determination was made, based on exemptions, to fully release, partially release, or fully deny. The following chart shows that full or partial releases were made in over 98 percent of those cases.

Disposition of Cases Based on Exemptions

- Full Release
- Partial Release
- Full Denial
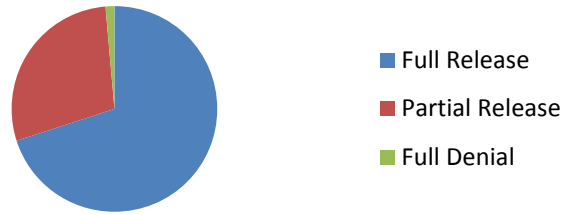
In those cases where information was partially released (and partially denied) or fully denied, the chart below shows the number of times each exemption was applied. As the chart demonstrates, the FOIA exemptions most frequently invoked were Exemptions 6 and 7(C), both of which protect the personal privacy of individuals.

Number of Times Exemptions Used
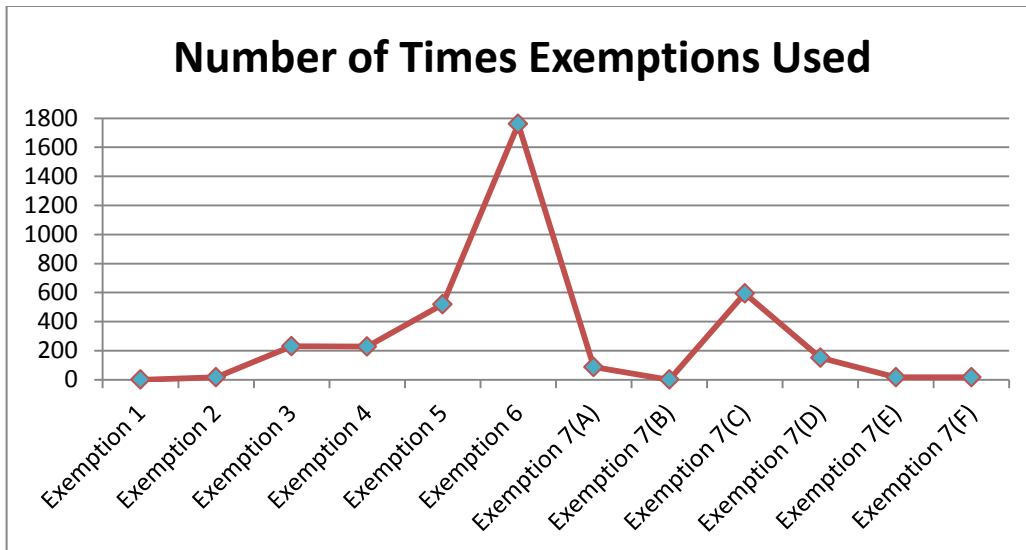
In 14 percent (or 1,784) of the 12,681 cases processed, no records were located. Approximately half of those were requests for information from FAA's airman database. Often, companies ask for enforcement histories and accident histories for pilots or mechanics they are considering hiring. A "no records" response indicates that the particular pilot or mechanic had no enforcement or accident history. Other requesters may seek air traffic control tapes. These are recycled after about 15 days, so if a FOIA request arrives asking for a tape past that time, FAA ordinarily would have no responsive

records. The Department also receives requests for correspondence between DOT and a particular individual or company for which we sometimes have no responsive records.

We are particularly proud of the fact that our backlog of appeals has continued to decrease over the past several years. At the end of FY 2015, we had only 22 backlogged appeals. This represents a decrease of 77 percent in our backlog since FY 2009.

Number of Backlogged Appeals

FY 09	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15
96	84	65	47	45	28	22
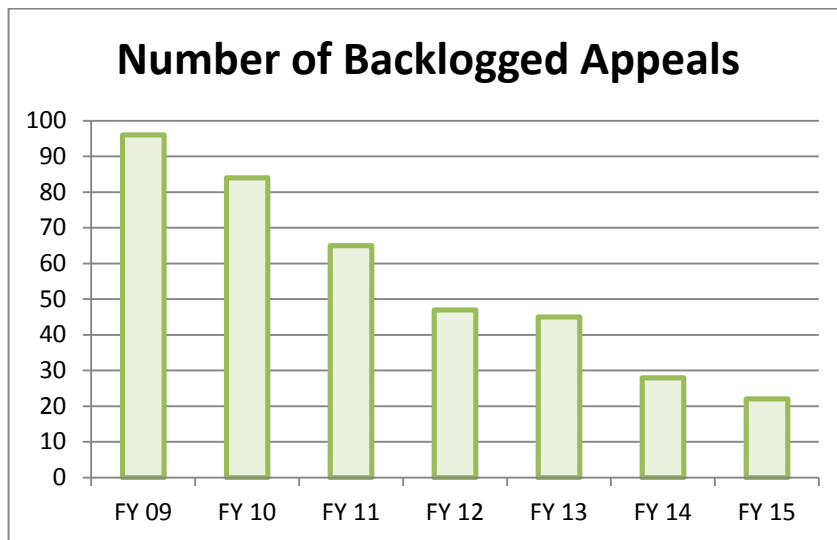
Section I: Steps Taken to Apply the Presumption of Openness

The following are examples of steps that DOT has taken to ensure that the presumption of openness is being applied to all decisions involving FOIA, and that DOT FOIA professionals are appropriately trained.

FOIA Training Provided

The Departmental FOIA Office held interactive monthly meetings with FOIA professionals and attorneys throughout the Department to provide guidance, address current FOIA issues, and share best practices.

In May 2015, DOT and the U.S. Health and Human Services Administration (HHS) co-sponsored a full-day joint training session, "Conflict Resolution Skills for FOIA Professionals." Alternative dispute resolution (ADR) skills were taught to FOIA professionals by ADR professionals, using examples taken from real-life FOIA situations, to enhance our ability to communicate effectively with FOIA requesters and provide better service.

OST arranged for the online training modules created by the U.S. Department of Justice's (DOJ) Office of Information Policy (OIP) to be posted on DOT's electronic training management system – including the DOJ/OIP course for all Government employees and the DOJ/OIP course specifically designed for FOIA professionals.   All but one DOT component use this system. The final DOT component is in the process of incorporating these training modules into its online training system. Many employees throughout the Department have viewed one or both of the training modules.

FHWA developed and conducted component-specific FOIA web-based training, including an overview course, a course on fees and fee waivers, and courses on Exemptions 4, 5, 6, and 7(C). The overview course was required for approximately 100 FHWA employees who are managers and/or FOIA contacts, and the additional courses were strongly recommended to FHWA employees who perform FOIA functions as a collateral duty.

FRA organized webinars for staff viewing presented by the American Society of Access Professionals (ASAP), on *Introduction to the FOIA; Exemption 4; Fees and Fee Waivers; FOIA and Privacy Act; and FOIA Exemptions Overview.*

The FAA FOIA Office conducted in-service training at its weekly staff meetings. The training materials were posted on FAA's FOIA Toolkit webpage and made available for use by FOIA contacts throughout FAA.

FOIA Training Received

DOT employees in various components attended a wide variety of FOIA training sessions. This included formal training sponsored by DOJ/OIP, such as *FOIA for Attorneys and Access Professionals, FOIA Litigation Seminar*, and *Advanced FOIA Seminar*, as well as FOIA and Privacy Act training presented by the George Washington University.

Several FOIA professionals attended the annual 3-day National Training Conference sponsored by ASAP, as well as ASAP-sponsored luncheon seminars.

The previous section described training facilitated by DOT, and this section describes how that training was received. Staff in several components took advantage of the on-line training modules created by DOJ/OIP; FHWA staff viewed FHWA-specific FOIA web-based training, including an overview course, a course on fees and fee waivers, and courses on Exemptions 4, 5, 6, and 7(C); and FRA staff viewed webinars presented by the American Society of Access Professionals (ASAP) on Introduction to the FOIA, Exemption 4, Fees and Fee Waivers, FOIA and Privacy Act, and FOIA Exemptions Overview. Approximately 10 DOT staff attended *Conflict Management Skills for FOIA Personnel,* presented jointly by DOT/HHS alternative dispute resolution professionals.

DOT staff also attended various DOJ/OIP Best Practices Workshops held throughout the reporting period.

Finally, FOIA professionals and attorneys in the components participated in monthly DOT-wide FOIA meetings, many of which included training segments.

Percentage of FOIA Professionals Trained

During the previous reporting period, each DOT component provided me with a plan for ensuring that substantive FOIA training was offered to each of their FOIA professionals at least once a year. The DOT's training plan included using a number of resources to accomplish the training, such as on-line training modules currently available in various DOT components, videoconferences, webinars, classroom training, and on-the-job training. Also, our plan included conducting training sessions on various FOIA legal and administrative issues during monthly DOT-wide FOIA meetings. Those plans, coupled with training sponsored by the Office of the Secretary, helped us achieve the goal of training all DOT FOIA professionals during the previous reporting period.

Using the same strategies as in the previous reporting period, combined with the use of the DOJ/OIP online training modules, 100 percent of DOT's FOIA professionals again received substantive FOIA training during this reporting period.

Outreach

Beyond working closely with individual FOIA requesters, DOT did not engage in any formal outreach to the requester community. We will explore opportunities for requester community outreach during the next reporting period.

Discretionary Disclosures

The DOT encourages and supports the discretionary release of records. While DOT does not have a formal DOT-wide system in place to review records for discretionary release, the components have various practices related to reviewing records to determine whether all appropriate discretionary releases are made. As a result, during the reporting period, the majority of DOT's components made discretionary releases of information otherwise exempt from disclosure under Exemption 5. Before invoking Exemption 2 or 5, the DOT components' FOIA Offices, in consultation with their program offices, determine whether any of the information can be discretionarily released.

The DOT released many types of documents as a matter of discretion during the reporting period. For example, after conducting a harm analysis, most components released deliberative records, which in varying circumstances included e-mails, internal memos, and various draft documents, such as presentations, talking points, reports, letters, and agreements. In addition, FAA and OIG reported releasing records where Exemption 2 could apply.

Many OIG audit work papers could be withheld under Exemption 5; however, reviewers conduct a page-by-page review to make potential harm determinations and release the maximum information.

FHWA has, with some regularity, released information that could have been withheld under Exemption 5. These include: (1) deliberative materials regarding Federal-aid highway projects where the approval process or projects are complete; (2) attorney-client privileged documents where there is no harm in waiving the privilege by release, such as transmittal emails, or emails relating to completed projects, with no litigation pending; and (3) attorney work product documents where there is no harm in release, such as drafts of agreements and correspondence where the subject of the agreement or correspondence is a project that is complete, with no litigation pending.

Other Initiatives

DOT has taken many steps to ensure that non-FOIA professionals are made aware of their FOIA obligations.

At the most senior level, the DOT FOIA Officer provided a FOIA briefing to the DOT Secretary, his senior advisors, and key officials throughout the Department that covered the basics of FOIA, including the presumption of openness, and provided a hand-out that included a link to DOJ/OIP's *FOIA for Senior Executives* briefing video. We also continued our tradition of posting an article on DOT's internal web page during Sunshine Week to highlight DOT's FOIA program and the work of various DOT FOIA professionals.

In many components, as part of new employee orientation, new hires were advised concerning their responsibilities as Federal employees under FOIA. In many cases, components are using the DOJ/OIP created FOIA infographic to describe each individual's responsibilities regarding FOIA. During the coming year, we will gather more information on best practices in this area and develop guidance for all components to inform new employees on their FOIA responsibilities.

FAA has included DOJ's FOIA for Senior Executives briefing video on its electronic Learning Management System training inventory. The FHWA FOIA Office also made this training available to all managers with responsibility for their office's FOIA program, and strongly recommended the training. FAA is in the process of including the DOJ/OIP FOIA training for all employees in its Learning Management System.

NHTSA routinely worked with its non-FOIA professionals through outreach to meet their obligations under the FOIA. Also, NHTSA created an exploratory committee to examine agency disclosure and FOIA practices to increase transparency. FHWA is involved in an ongoing effort to update its internal FOIA help webpage, which provides assistance to FHWA employees with questions about their FOIA obligations.

FRA informed non-FOIA professionals of their FOIA obligations by emails, conversations, and ASAP webinars. All DOT components also conduct, as appropriate, one-on-one discussions with record holders on their obligations to furnish information under FOIA.

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

To ensure that the management of our FOIA program is effective and efficient, I initiated an annual FOIA work plan in 2014. The annual plan, which is developed each year in coordination with the Departmental FOIA Office, identifies a series of objectives for our DOT FOIA program. The objectives are designed to provide more efficient and user-friendly service to FOIA requesters and

improve the overall management of DOT's FOIA program. I personally oversee progress on the work plan through monthly meetings with the DOT FOIA Officer and her supervisors. The DOT FOIA Officer discusses best practices related to FOIA processes, as well as progress related to the work plan, in monthly DOT-wide FOIA meetings.

Processing Procedures:

For Fiscal Year 2015, the average number of days to adjudicate requests for expedited processing was 11.388. When the annual report revealed this number was higher than 10 days, we made sure that it was a topic for discussion at the next upcoming monthly DOT-wide FOIA meeting. We will use best practices of the components that were able to meet the 10 day requirement to help the other components meet the mandated time in the future. I have also asked the DOT FOIA Officer to monitor this throughout the year.

During this reporting period, DOT has taken steps to make the routing of misdirected requests within our decentralized agency more efficient. The main DOT FOIA office receives the vast majority of these misdirected requests. Previously, we had logged these requests into our FOIA database. We now simply forward those requests via email to the correct component's FOIA inbox, with a copy to the FOIA requester, indicating to both the receiving component and the FOIA requester where the request has been sent for action.

Since DOJ issued its guidance on "still interested" letters and DOT discussed the issue at a monthly DOT-wide FOIA meeting, DOT components now follow DOJ's guidance, including giving requesters at least 30 days to respond.

Requester Services:

DOT's FOIA Requester Service Centers within the various components' FOIA Offices and FOIA Public Liaisons serve as the face and voice of an agency. They provide an important service for requesters, informing them about how the FOIA process works and providing specific details on the handling of their individual requests, and assisting requesters in resolving disputes. In calendar year 2016, we began adding a monthly agenda item to our monthly DOT-wide FOIA meeting called "Strengthening FOIA Requester Service Centers." Each month, we discuss ways to improve our FOIA Requester Service Centers throughout DOT.

I recently met with the DOT's FOIA Public Liaisons to ensure they understood their responsibilities as FOIA Public Liaisons and to offer them my support as DOT's Chief FOIA Officer. I also attend selected monthly DOT-wide FOIA meetings to highlight the importance of various issues.

PHMSA worked to strengthen customer service by, among other things, increasing the use of interim releases to FOIA requesters. PHMSA doubled interim releases from FY 2014 to FY 2015, in part, by identifying requested information that is typically released without FOIA exemption application, and by working with FOIA requesters to prioritize the release of information.

In FAA's large, decentralized FOIA program, the FOIA Public Liaison duties are housed in the Headquarters FOIA Program Management Branch. During the reporting period, the FOIA Public Liaison duties were elevated from a FOIA Specialist to the FOIA Officer to enhance the importance of the inquiries on behalf of the requesters. Also, the OIG now includes contact information for the OIG FOIA Public Liaison in every FOIA response letter.

Other Initiatives:

In developing the new FOIALOG database currently used by six DOT components, FHWA, in collaboration with OST, added numerous features to the system designed to enhance the effectiveness and efficiency of the FOIA program. This includes separate tracking of appeals, electronic submission of FOIA requests, electronic transfer of FOIA requests to re-route them between DOT components, more comprehensive FOIA reports, and the ability to centrally retain the FOIA administrative file for appeal and litigation purposes. In addition, the new FOIALOG system offers electronic retention of released FOIA documents to better track frequently requested records and to eliminate the need to process documents multiple times, which also will increase the consistency of redaction in releases.

To operate more efficiently, PHMSA is creating a library of template language that will standardize communications. During our monthly DOT-wide FOIA meetings, we have begun discussing and collecting various template letters used by the components. Our goal is to share best practices and achieve greater efficiency across the components where applicable.

Section III: Steps Taken to Increase Proactive Disclosures

During this reporting period, DOT has taken concrete steps to increase the amount of "in demand" material on our website using collaborative teams from each DOT component.

The Department's third Open Government Plan committed to increasing the amount of information provided on DOT's web pages in a systemic manner designed to ensure ongoing releases of data, and requires each DOT operating administration and OST to create a plan for doing so. We brought together selected experts from the components representing a variety of disciplines, such as Public Affairs, Open Government, Freedom of Information Act (FOIA), Records Management, Web,

Communications, and Data. This cross-modal, cross-functional group discussed: (1) the term "proactive disclosure" – used to describe the information and data we provide to the public on our own initiative; (2) our strengths – what we are currently doing well in this area; (3) classes of information requested by the public to be routinely posted; and (4) various methods that our constituents use to request information, such as direct contact with program offices, press and Congressional inquiries, formal requests under FOIA, and searching our Internet pages. To improve and measure the effectiveness of our transparency, however, everyone agreed that we need to have a more coordinated approach – both within each component and throughout the Department. Each component's cross-functional team developed a component-specific action plan for making "in demand" information publicly available on an ongoing basis.

Posting Material:

DOT's components all proactively post information about high-visibility/high-impact programs on their main page and/or program pages. Within the main DOT briefing room, we have posted press releases, regular blog posts by the Secretary of Transportation, speeches, photos, and videos. The main DOT briefing room also contains links to each component's briefing room and featured DOT social media sites.

DOT's components regularly monitor their FOIA logs to identify frequently requested records. In addition, each DOT component included an item on identifying these records as part of its "proactive disclosure" plan, which is described in detail below.

Each DOT component has identified a distinct process for identifying records, other than those that must be posted as frequently requested records, in its "proactive disclosure" plan, which is described in detail below.

The responsibility for making documents Section 508-compliant prior to posting varies across the components, and may involve webmasters or other IT professional, program office staff, counsel staff, communications staff, or FOIA professionals.

Examples of Information Posted:

Following are just a few examples of records that have been proactively posted or updated during the reporting period.

OST posted information on its highly competitive [transportation grant program](), information regarding [drug and alcohol testing]() of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries. OST also posts the monthly [Air Travel Consumer Report](), which assists consumers with information on the quality of services provided by the airlines.

FAA posted the list of [UAS Exemptions]() granted for the commercial operation of unmanned aircraft, [pilot reports of unmanned aircraft sightings](), and updated on a weekly basis its popular [aircraft tail number search feature]().   [FRA's eLibrary]() provides a wealth of Agency documentation, containing over 5,000 documents searchable by date, subject, and type, and the [Rail Network Development webpage]() includes a map created using Geographic Information Systems (GIS), which allows users to view and print precise maps of passenger rail systems, freight stations, grade crossings, using an interactive interface.

FHWA posted its Annual [National Bridge Inventory]() and information on [guardrail end terminals](), and FTA posted its [National Transit Database data summary tables](). FMCSA's Safety and Fitness Electronic Records System ([SAFER]()) offers up-to-date safety data and related information on interstate trucking companies and motor coaches to industry and the public.

PHMSA posted [maps showing Liquefied Natural Gas]() (LNG) in the United States, a wealth of [pipeline data statistics]() and [hazardous materials data statistics](), and information regarding hazardous materials [Special Permits and Approvals](). NHTSA posted current information about [vehicle safety]() and [recalls and defects]().

SLSDC posted an [interactive shipping map and shipping schedule]() for vessels transiting the Great Lakes-St. Lawrence Seaway System. OIG posted information regarding its [audits]() and [investigations](), as well as the DBE Fraud issue of its [Impact Magazine]().

Publicizing Posted Material:

Many components reported publicizing important proactive disclosures for public awareness, including through various [DOT social media]() outlets. Several components send e-mails to readers who have asked via a site-wide subscription process to receive news and information on specific topics or subjects. In addition to traditional press releases, events and press calls, many DOT components employ Facebook, Twitter, YouTube, Instagram, and Vine to further the reach of their messages. The heads of components also contributed guest blogs to the Transportation Secretary's [Fast Lane Blog]().

Other Initiatives:

DOT's Chief Data Officer and Departmental FOIA Officer formed a cross-modal, cross-functional group to help inform the Open Government Plan guidance mentioned above, on increasing proactive disclosures. They sought input from those whose jobs can have a positive impact in effectively increasing proactive disclosures throughout DOT. Participants included experts in the areas of Public Affairs, Open Government, FOIA, Records, Web, Communications, and Data. Our goal was to be more systematic in the area of proactive disclosures, and we believe this collaboration was key.

The next step was for the Chief Information Officer and the General Counsel to send a memorandum to the Heads of the Operating Administrations (OAs) titled, "Developing a Systemic Approach for Increasing the Public Availability of Information about Agency Operations." That memorandum directed the OAs to develop a plan for systematically identifying and posting more "in demand" information on their responsive websites. The guidance to the OAs instructed them to address, at a minimum, certain types of documents (Congressional reports and testimony, FOIA request logs, funding/apportionment tables, and correspondence logs). The guidance also instructed the OAs to review their current practices, including how they ensure that Electronic Reading Rooms are current, and identify new information or data releases based on various demand signals.

The OAs' plans are posted at https://www.transportation.gov/mission/open/plans-increasing-public-availability-information-about-agency-operations. The OAs will monitor their plans throughout the year in various ways. For example, the Executive Sponsor for the OST will hold quarterly meetings with the program offices and support offices that formed the OST Team. We anticipate the plans will be updated and refined as we learn and share best practices throughout the implementation process.

Section IV: Steps Taken to Greater Utilize Technology

In addition to using the Internet to make proactive disclosures, DOT has been exploring ways to use technology in responding to FOIA requests.

Making Material Posted Online More Usable:

Beyond posting new material, the following are a few examples of steps that DOT is taking to make our posted information more useful to the public, especially to the community of individuals who regularly access DOT's website.

FRA continues to use a robust eLibrary functionality to catalog documents and data available on its website, making information easier to find. A short tutorial video is provided on the site.

The exercise of "Developing a Systemic Approach for Increasing the Public Availability of Information about Agency Operations" undertaken by all DOT OAs was to bring together cross-functional teams with representatives from program offices, public affairs, FOIA, data, information technology, etc. within each OA. The components reported listening to various demand signals, using web analytics, to determine what people are clicking and search terms being used, to target what additional information to post and/or make easier to find. They reported finding great value in bringing these multi-disciplinary teams together to identify additional records and new ways to post agency information online.

Several components also use mobile applications to reach their intended audiences. One such is example is FMCSA's Pre-Employment Screening Program [(PSP) Mobile Application](#) that allows PSP account holders to access commercial driver crash and inspection histories on-the-go using the PSP iDevice mobile application.

Use of Technology to Facilitate Processing of Requests:

The majority of DOT components reported expanded use of technology for processing FOIA requests.

To avoid the need to review the same e-mail more than once when responding to a FOIA request, several components purchased de-duplicating and email threading software during the reporting period, while other components are exploring the possibility of purchasing such software. Another component purchased a tool that helps search and sort emails.

FHWA anticipates that the new FOIALOG system, which is scheduled for roll-out by mid-March 2016, will create some technological efficiencies in terms of great ease of re-routing FOIA requests to the correct office, and allowing requests to be made electronically. The new system also will facilitate electronic preservation of the administrative record of initial requests to allow FHWA to more effectively and efficiently address FOIA appeals and litigation.

FOIA professionals in two components attended system training provided by their commercial off-the-shelf FOIA product company, including an add-on product that provides de-duplicating and email.

In OST, FOIA contractors were trained on the use of an e-discovery tool used by the FOIA team, and the FOIA team used on-the-job training to expand the use of an e-discovery tool for FOIA processing.

FRA is implementing a new FRA-wide case and correspondence management system, including a FOIA module. Training was conducted to get FRA FOIA staff up-t0-date on the new system.

Online training on a commercial off-the-shelf redaction tool has been made available and encouraged for FAA's FOIA professionals, and FAA is using webpage postings and SharePoint technology to enhance document sharing.

Several components reported using shared drives to collect documents from program offices.

One component is also considering the use of existing technologies to create a process workflow that will automate search assignments and search form completions.

Other Initiatives:

As required by DOJ, DOT successfully posted all of the required quarterly FOIA reports for FY 2015.

All DOT components use e-mail to communicate with requesters to varying degrees, including acknowledgement letters, interim and final letters, and other communications with requesters. We recognized that there were opportunities for improvement and consistency among the components. During the reporting period, we assessed electronic communication with requesters throughout DOT and determined that e-mail should be used as the default means of communicating with requesters, whenever practicable. This was discussed in a DOT-wide monthly FOIA meeting, and best practices from the components will continue to be discussed and encouraged.

All components use a FOIA email inbox so that FOIA requesters can email correspondence to one central location. This allows multiple component employees to monitor the inbox and respond accordingly. FOIA requesters are encouraged to send correspondence to the FOIA inbox.

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

The President and the Attorney General have emphasized the importance of improving timeliness in responding to requests. This section addresses both time limits and backlog reduction.

Simple Track Requests

Ten of DOT's eleven components place simple requests on a separate track for simple requests. The remaining component, FRA, did not use a separate track for simple requests in FY 2015. At my request, going forward FRA will also separate simple requests into a separate track for FY 2016. During FY 2015, the average number of days to process simple requests was 56.51. Of DOT's 12,681 requests processed, 79 percent were placed in the simple track.

Backlogs

Our backlog of pending requests did not decrease from the end of FY 2014 to the end of FY 2015. The lack of a reduction in the initial request backlog is the result of an increase in the number (several components) and complexity (several components) of incoming requests and appeals. DOT's backlog of initial requests is 13.9 percent of the number of requests received during FY 2015.

Our backlog of pending administrative appeals decreased from the end of FY 2014 to the end of FY 2015. DOT's backlog of appeals is 13.4 percent of the number of appeals received during FY 2015.

Reasons for Increase of the Backlog of Initial Requests

FAA's backlog increased due to an increase in the number of requests received and a new program with substantial public interest – unmanned aircraft systems.

FRA's backlog increased because the number of people processing the requests decreased. Also, FRA experienced an increase in the number of FOIA requests received due to high visibility issues such as Positive Train Control (PTC), transportation of crude oil by rail, and several major accidents during the past year.

NHTSA's backlog increased, primarily due to the sheer amount of records created due to information technology. In addition to the vast amount of records, NHTSA is involved in complex investigations in scope and volume that have great public interest, which significantly drives up the number and complexity of FOIA requests.

PHMSA's backlog increased for several reasons, including an increase in the number of requests received. The one FOIA full-time employee was on leave for a quarter of the reporting period, and contractor support was inconsistent. PHMSA's FOIA requests continue to get more complex. For instance, when a pipeline or hazmat incident receives national media coverage, multiple

FOIA requests for any relevant PHMSA records are received. FOIA litigation also continues to divert FOIA staff from processing FOIA requests.

Backlog Reduction Plans:

In FY 2014, DOT had a backlog of 1,624 requests. Because of this, we developed a backlog reduction plan for FY 2015 that focused on FAA and FMCSA, which between them accounted for the vast majority of DOT's backlog of requests and which both saw significant increases in their backlogs in FY 2014. The Departmental FOIA Officer monitored the backlogs of FAA and FMCSA on a quarterly basis. Although FMCSA was able to reduce its backlog, FAA, for the reasons explained above, was not. Although FAA was not able to reduce their backlog of requests, they were able to close all of the FAA requests identified on DOT's 10 oldest listing.

Our backlog reduction plan for FY 2016 will focus on all of the components that experienced increases in their backlogs: FAA, FRA, NHTSA, and PHMSA. Using data provided by the components for the quarterly reports, I have directed the Departmental FOIA Officer to closely monitor the backlogs for those four components and to report to me on a quarterly basis. If the components are not making sufficient progress, I will reach out to the managers of the respective FOIA offices to determine how progress can be improved.

Status of Ten Oldest Requests, Appeals, and Consultations

In FY 2015, we closed all of the ten oldest requests that were pending as of the end of FY 2014. Of the ten that were closed, three were withdrawn. In those three cases, no records had been provided to the requesters prior to the request being withdrawn.

In FY 2015, we closed all of the ten oldest appeals that were pending as of the end of FY 2014.

At the end of FY 2014, we had five pending consultations, which we were able to close out during FY 2015.

Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans

This was an area of success for DOT, as we were able to close our 10 oldest initial requests, appeals, and consultations during FY 2015. All DOT components understand the high priority of closing the oldest cases and are focusing their attention on them. This topic, including best practices from the components, has been and will continue to be discussed in our monthly meetings. During FY 2016, the Departmental FOIA Officer will again monitor the progress of each of the Department's ten

oldest initial requests, appeals, and consultations, and report the status to me on a monthly basis. If sufficient progress has not been made, I will reach out to managers in the relevant components.

Interim Responses:

The majority of DOT components use interim responses to get documents to requesters on a rolling basis. The components determine when to make use of interim responses on a case-by-case basis. During this reporting period, one component (PHMSA), as described earlier in the report, began aggressively using interim releases. In addition, FAA uses interim releases on a regular basis. When FAA receives a FOIA request, often the request is assigned to multiple FAA offices for action. As each office completes its work, it sends a response and responsive documents to the requester. The request is not closed out in the database until the last office responds. This way, requesters routinely receive documents on a rolling basis from FAA.

We estimate that requesters in approximately 150 (8 percent) of our backlogged cases have received a substantive, interim response.

Use of FOIA's Law Enforcement Exclusions

DOT did not invoke a statutory exclusion, 5 U.S.C. § 552(c)(1), (2), (3), during FY 2015.

Success Story

The Department is particularly proud this year of its proactive disclosures initiative. The Chief Information Officer and the General Counsel co-signed a memorandum to the Department's Operating Administrations (OAs) entitled *Developing a Systemic Approach for Increasing the Public Availability of Information about Agency Operations.* The memorandum directed each OA to develop a *systemic* approach to *sustained* proactive disclosures of valuable Departmental information – based largely on indications from the public on what information is sought. The OAs brought together cross-functional teams with representatives from program offices, public affairs, FOIA, data, information technology, etc. to develop their respective plans. The various OA plans under this initiative are posted at https://www.transportation.gov/mission/open/plans-increasing-public-availability-information-about-agency-operations. The OAs will monitor their plans throughout the year in various ways. In the Office of the Secretary (OST), for example, the Executive Sponsor will hold quarterly meetings with the program offices and support offices that formed the OST Team. We anticipate the plans will be updated and refined as we learn and share best practices throughout the implementation process.