

## Chief FOIA Officer Report for the Surface Transportation Board (through 2/28/2010)

### I. Steps Taken to Apply the Presumption of Openness

1. The Surface Transportation Board has taken the following steps to ensure that the presumption is being applied to all decisions involving the FOIA:

Modified the form requesting staff searches in response to FOIA requests to include the following language:

Please note that an agency has the discretion to release documents even though a FOIA exemption may apply to them. It is the policy of the Obama administration to encourage agencies to release such records whenever it is determined that such release will not result in actual harm.

Adopted an informal policy granting administrative FOIA appeals, where the only reasons to deny the appeal would have been technical, e.g., appeal received after the deadline. For example, the agency granted an appeal regarding a fee-waiver denial even though the appeal was filed after the deadline and the requester had previously agreed to pay FOIA fees. The agency granted the appeal because the appeal included information that would have justified granting the waiver if the appeal had been timely filed.

Adopted an informal policy to work with requesters, where reasonable, to deliver the actual information sought in the most cost-effective and expedient manner even when doing so requires the agency to “create” a record or provide “information” in the absence of a record. For example, in response to a request for a list of agency SES employees, such a list was “created” to avoid copying and redacting several records. And in response to another FOIA request, we arranged for a member of the Board’s environmental staff to phone the requester to provide the simple answers to the requester’s concerns when there were no responsive “records” addressing those concerns.

2. As reflected in the FY 2008 and 2009 Annual FOIA Reports, the percentage of FOIA requests that were granted in whole or part grew slightly in 2009. The actual number of FOIA requests granted fell in 2009 due to a decrease in the number of requests received. The agency fully granted 8 of the 14 (58%) FOIA requests received in 2009. There were no partial grants or denials in FY 2009. In FY 2008, there were 11 full grants and 3 partial grants for a total of 14 grants (57%) out of 24 requests received.

### II. Steps Taken to Ensure an Effective System for Responding to Requests

At the STB the FOIA Officer has long enjoyed the support of the CIO and IT staff in responding to FOIA requests. An efficient and low-cost database, including templates for staff-search requests and responses to requesters, was developed in-house to track the relatively small number of FOIA requests received by the agency. And the IT staff worked with the FOIA Officer to develop printed staff instructions for performing

thorough and efficient electronic searches of email and hard drives. In addition, during the reporting period, IT staff helped to format responsive documents for the most cost-effective transmittal to requesters.

The FOIA Office is able to respond to all FOIA requests within the statutory time-limits. Since October 2009, only one requester filed an administrative appeal of the agency's initial FOIA decision (a fee waiver decision for which the appeal was granted (see above)). There were no administrative or judicial appeals on the merits.

### III. Steps Taken to Increase Proactive Disclosures

During the past year, the agency established a number of task forces and work groups to consider whether and how to increase transparency. Specifically, a task force has been considering posting on the web all correspondence, including Congressional correspondence, to and from the agency. Another working group is reviewing the feasibility of scanning and posting on the web older microfiche documents that are currently available to the public only at the agency's headquarters. In addition, the agency recently made its website accessible to users of portable devices, such as blackberries and mobile phones. And the Office of Economics is currently studying proposals to post additional economic data on the agency's website.

### IV. Steps Taken To Greater Utilize Technology

1. *Does your agency currently receive requests electronically?* The STB currently accepts requests electronically through the STB website using LOTUS DOMINO.
2. *If not, what are the current impediments to your agency establishing a mechanism to receive requests electronically?* N/A
3. *Does your agency track requests electronically?* The STB tracks requests electronically, through a database developed in-house using LOTUS NOTES.
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?* The STB uses technology to process requests in the following ways: Where possible, the FOIA Officer communicates with requesters electronically, confirming and clarifying requests, and resolving fee issues by email (LOTUS NOTES). The STB's FOIA database tracks requests and includes templates to facilitate staff requests and FOIA responses.
6. *If not, what are the current impediments to your agency utilizing technology to process requests?* N/A
7. *Does your agency utilize technology to prepare your agency Annual FOIA Report?* The STB uses technology to prepare the Annual FOIA Report in the following ways:

The FOIA Officers compiles the report using data stored in the agency's FOIA database (LOTUS DOMINO). A template for the FOIA report is stored in a computer file (Microsoft Office) and the draft and final reports are submitted via email (LOTUS NOTES).

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

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

1. Backlog Status: N/A \*
2. Backlog Reduction Steps: N/A \*
3. Steps to Improve Timeliness: N/A \*

\*As noted above, the STB is able to respond to all FOIA Request within the statutory time-limits. Therefore, we had no backlog of requests or appeals in FY 08 or FY 09.

Submitted by Craig Keats, Chief FOIA Officer  
Surface Transportation Board  
March 12, 2010