

**Surface Transportation Board**  
2013 Chief FOIA Officer Report  
Through 3/11/2013 (due no later than 2/4/2013)

**Section I. Steps Taken to Apply the Presumption of Openness**

1. The Surface Transportation Board (Board or STB) did not hold an agency-wide FOIA conference. We did, however, email to all staff revised FOIA guidance to assist them in performing searches in response to FOIA requests. In addition, the Board continued to train a second FOIA professional to provide more consistent coverage when the FOIA Officer is on leave and to ensure a smooth succession when the current FOIA Officer retires.

The Board's FOIA Officer attended the following training sessions offered by the Department of Justice: Refresher Training on the Guidelines for Preparation of Annual FOIA Reports; and FOIA Fundamentals (Director's Lecture Series).

2. Although the Board affirmatively seeks to make discretionary releases of exempt records, the Board did not have the opportunity to do so during the reporting period. The Board denied records only four times (out of 30 requests received by the Board) in Fiscal Year (FY) 2012, and all four of the denials were partial denials, primarily withholding personal information under Exemption 6.
3. There was no release of otherwise exempt information in FY 2012.
4. Although the Board did not make any discretionary releases in FY 2012, in several instances, the Board did grant requests that were arguably requests for information, rather than for records (as technically required by FOIA). In addition, the Board has continued its efforts to release on its website information and records that may be of interest to the public. As described in more detail below, the Board posted additional economic data on its website, after releasing a significant amount of new information and records in FY 2011.
5. STB staff is very aware of the need for openness in government and routinely considers that need in reviewing requests. Guidance and search requests to agency staff from the FOIA Office highlight the presumption of openness.

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

1. At the STB, the FOIA Officer has long enjoyed the support of the Board's Chief Information Officer and IT staff in responding to FOIA requests. Several years ago, an efficient and low-cost database, including templates for staff-search requests and responses to requesters, was developed by the STB's IT staff to track

the relatively small number of FOIA requests received by the agency. During the reporting period, the IT staff has continued to work cooperatively with the FOIA Officer to make improvements to that system and to provide requested records in requested formats. Presently, the FOIA Office is working with IT staff on a major upgrade of the system that will integrate electronic FOIA requests through the Board's website or through email, upgrade the templates for internal and responsive documents, and generally improve the tracking of FOIA data, including internally tracking FOIA requests and responses and other data necessary to complete the FOIA Annual Report.

2. The FOIA Officer is a member of the Agency's Open Government Team, which works to identify additional information that can be posted on our website and to increase the utility of the information that is already posted there.
3. The Board has adequate staffing for the FOIA office. We received 30 FOIA requests in FY 2012, all of which were responded to within the statutory time-limits. The average number of days to respond to FOIA requests was approximately 6 days in FY 2012.
4. During the reporting period, the Board's FOIA staff has evaluated its internal tracking system and, with the support of IT, has made several changes to its FOIA database that will enable FOIA staff to better track its actions. Additionally, FOIA staff has moved its FOIA records to an electronic filing system on a shared drive on the Board's intranet (with backup). As a result, FOIA staff can more easily access these records and more efficiently and safely maintain them.

### **Section III. Steps Taken to Increase Proactive Disclosures**

1. The Board aims for transparency in all of its proceedings by posting on its website all pleadings filed with the Board, except those that contain sensitive personal or commercial information. Specifically, the Board posts original and subsequent pleadings filed in both rulemakings and adjudications, and all recordations (documents filed with the Board to perfect a security interest in rail or water carrier equipment). The Board also provides links to important environmental documents, including large Environmental Assessments and Environmental Impact Statements related to proceedings before the Board. In addition, the Board posts non-confidential reports or information from reports, which are filed annually and/or quarterly by the Class I railroads.

In the past year, the Board posted a number of items on its website for the first time. Specifically, the Board posted its five-digit Commodity Revenue Stratification Report. This report shows the revenue, variable costs, tons, and carloads associated with many combinations of car type and five-digit Standard Transportation Commodity Code. The Board also added the blank forms for the eight quarterly and annual reports required for Class I railroads. These forms may now be viewed and downloaded.

2. During FY 2012, the Board added a mobile interface to its website. In addition, the Board is engaged in an ongoing project to increase the search capabilities on the Board's website.
3. During FY 2012, the Board added a mobile portal to its website – Mobile STB. The public can now access our website on their mobile devices, including any web-enabled smartphone, PDA, or Blackberry. Mobile STB provides a menu of services, including items of interest, filings, decisions, rail recordations, economic data, rail consumer information, environmental reports and information, news releases, and contact information. The interface is simple and easy to use.
4. The Board has been planning a new website for nearly two years, but the launch has not occurred as anticipated due to problems with its search capabilities. The new website when launched will contain new features that will allow the community of individuals who regularly access our website (or anyone in the public) to create their own webpage and have records of interest delivered there.

Finally, in FY 2011, a working group reviewed 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. That undertaking is on hold, pending availability of funds.

#### **Section IV. Steps Taken To Greater Utilize Technology**

##### *Electronic receipt of FOIA requests:*

1. FOIA requesters can submit FOIA requests through the Board's website, or through E-gov, or via email or fax.
2. Given the small size of the agency, all FOIA requests are processed through the Board's one FOIA Office.

##### *Online tracking of FOIA requests:*

3. FOIA requesters cannot track their requests online. However, given the relatively small number of requests received, the FOIA staff is usually able to respond to any email or telephone questions from requesters within 24 hours.
4. For the reasons noted in IV. 3. above, the STB has not established an electronic tracking system for FOIA requesters.
5. For the reasons noted in IV. 3. above, the STB has not established an electronic tracking system for FOIA requesters.

6. Because the agency is currently able to reply to FOIA requests within the statutory time limit and respond promptly to any requester inquiries, investing resources to provide requester with the capability to track their own requests is not warranted at this time.

*Use of technology to facilitate processing of requests:*

7. Due to the low volume of FOIA requests at the Board and the FOIA staff's ability to handle those requests without a backlog, an investment in additional FOIA-specific technology to facilitate search and/or retrieval of records is not warranted at this time. However, ongoing efforts to generally redesign the Board's website and records management systems is expected to further expedite FOIA searches.
8. As the Board continues to upgrade its IT systems, the FOIA Office, with the help of IT staff, has periodically provided revised instructions for Board staff explaining how to efficiently and accurately search for electronic documents, including emails, and documents stored on the employee's hard drive and the Board's intranet drives. Such revised guidance has been provided during the reporting period.

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

1. *For figures required in this Section, please use those contained in the specified sections of your agency's 2012 Annual FOIA Report:*
  - a. The Board does not use a separate track for simple FOIA requests.
  - b. N/A.
  - c. Yes. The average response time for the agency was approximately 6 days.
2. *Whether the agency has a backlog of FOIA requests?*
  - a. The Board did not have a backlog of requests at the close of FY 2012.
  - b. The Board did not have a backlog of administrative appeals at the end of FY 2012.
  - c. The Board did not have any FOIA requests pending at the end of FY 2011.
  - d. The Board did not have any administrative appeals pending at the end of FY 2011.

3. The Board did not answer “no” to any of the questions in V. above.
4. The Board did not have a backlog in FY 2012. The Board did, however, make interim releases where there was an unavoidable delay in the retrieving some of the requested records that the Board had agreed to disclose.

### **Use of FOIA’s Law Enforcement “Exclusions”**

1. The STB did not invoke a statutory exclusion during FY 2011.
2. N/A.

### **Spotlight on Success**

The biggest success story for the STB was the simple fact that, as in FY 2011, in FY 2012 the Board responded to every FOIA request within the statutory timeframe. The Board’s average response time was nine days in FY 2011, when it received 38 FOIA requests, and six days in FY 2012, when it received 30 FOIA requests. Further, the Board denied only two FOIA requests in FY 2011 and only four in FY 2012, and these were all partial denials. While the Board’s accomplishments may not be high tech, these successful FOIA efforts demonstrate that the Board is dedicated to providing the public with the transparency that President Obama and Attorney General Holder expect from all Executive agencies.

#### ***Submitted by***

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February 1, 2013