

***SURFACE TRANSPORTATION BOARD***  
**ANNUAL FOIA REPORT**  
for  
FY 2006 (October 1, 2005 - September 30, 2006<sup>1</sup>)

I. Basic Information Regarding Report

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

Marilyn R. Levitt  
1925 K Street, NW Room 614  
Washington, DC 20423  
(202) 565-1565  
FAX (202) 565-9001  
e-mail: FOIA.Privacy@stb.dot.gov

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

<http://WWW.STB.DOT.GOV/FOIA.HTM>

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

Request copy from FOIA officer in "A" above, by letter, FAX, or e-mail.

II. How to Make a FOIA Request

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

Surface Transportation Board  
FOIA Officer  
1925 K Street, NW TELE. NO. (202) 565-1565  
Washington, DC 20423 FAX (202) 565-9001

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

Average acknowledgment time less than 2 days. Requests usually filled within 10 working days.

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

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<sup>1</sup> As required by Executive Order 13,392, Section XII of this report covers STB activities through January 2007.

Some requests are denied under Exemption 4, because information submitted to the agency by third parties is deemed to be proprietary and commercially sensitive. Other requests are denied under Exemption 5, because the requested materials are deemed to be pre-decisional staff communications that are part of the deliberative process, or attorney work-product. One request resulted in a partial denial under Exemption (high) 2, where the information requested could increase the agency's vulnerability to "denial of service" internet attacks.

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

#### A. Agency-specific acronyms or other terms.

STB (Surface Transportation Board)

### IV. Exemption 3 Statutes

None.

### V. Initial FOIA/PA Access Requests

#### A. Numbers of initial requests.

1. Number of requests pending as of end of preceding fiscal year 1
2. Number of requests received during current fiscal year 17
3. Number of requests processed during current fiscal year 18
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 6
2. Number of partial grants 0
3. Number of denials 3

#### a. Number of times each FOIA exemption used (counting each exemption once per request)

- (1) Exemption 1 0
- (2) Exemption 2 0
- (3) Exemption 3 0
- (4) Exemption 4 1
- (5) Exemption 5 2
- (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) 9

- a. no records 9
- 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 2
- 2. Number of appeals processed during fiscal year 2

B. Disposition of appeals.

- 1. Number completely upheld 2
- 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 1
- (5) Exemption 5 1
- (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 (multiple tracks not used).

- a. number of requests processed 18
- b. median number of days to process 8

2. Complex requests (specify for any and all tracks used). N/A

3. Requests accorded expedited processing. N/A

B. Status of pending requests.

- 1. Number of requests pending as of end of current fiscal year 0 (Enter this number from Line V.A.4.)
- 2. Median number of days that such requests were pending as of that date N/A

#### VIII. Comparisons with Previous Year(s)

- A. Requests received decreased by 11.
- B. Requests processed decreased by 10.
- C. Average processing time remained the same.
- D. No requests for expedited processing were received.

#### 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) 32%

3. Total number of personnel (in work-years) 32%

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

1. FOIA processing (including appeals) \$42,163

2. Litigation-related activities (estimated) None

3. Total costs \$42,163

4. Comparison with previous year(s) (including percentage of change) (optional)

C. Statement of additional resources needed for FOIA compliance (optional) None.

X. Fees

A. Total amount of fees collected by agency for processing requests \$ 1,097.55

B. Percentage of total costs 2.6%

XI. FOIA Regulations (Including Fee Schedule)

Regulations may be found at:

[http://WWW.STB.DOT.GOV/FOIA/49CFR1001\\_FOIA.HTM](http://WWW.STB.DOT.GOV/FOIA/49CFR1001_FOIA.HTM)

Fees may be found at:

[http://WWW.STB.DOT.GOV/FOIA/49CFR1002\\_FEES.HTM](http://WWW.STB.DOT.GOV/FOIA/49CFR1002_FEES.HTM)

XII. Report on Executive Order 13,392 Implementation

This section of the annual FOIA report contains the STB's description of its progress in implementing the milestones and goals of the agency's FOIA Improvement Plan. The reporting period of Section XII is different from that used for the rest of this report, which is based on data compiled for Fiscal Year 2006. The reporting period for this section concerning Executive Order implementation activities includes progress made through January 2007.

A. Description of supplementation/modification of agency improvement plan (if applicable)

Not applicable

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

The STB has substantially met all of the goals that it set for itself during the reporting year. In the area of webpage improvement, the STB clearly labeled as such the “Reading Room” records that it had already posted on the web, and visitors to its FOIA webpage can now find them more easily. In addition, a link was added to the Department of Justice’s FOIA webpage to facilitate access to those additional FOIA resources. Finally, the STB’s FOIA Reference Guide, was posted to the webpage on February 7, 2007.

In the area of improving the ease with which STB staff members respond to FOIA requests, the STB is in the process of finalizing a “Best Practices” memo, which it expects to distribute to staff members by mid-February. This memo is intended to help STB employees understand what is expected of them when they are asked to do a FOIA search. It also answers some common concerns about FOIA and offer tips that will hopefully make their FOIA searches easier.

C. Identification and discussion of any deficiency in meeting plan milestones (if applicable)

As noted above, the agency has substantially met all of its goals. However, the agency failed to meet the precise dates it had set for itself in its Improvement Plan:

While the agency had hoped to have its FOIA Reference Guide posted on its website by December 31, 2006, it was not posted until February 7, 2007, due to staffing limitations.

The agency had set a goal of November 30, 2006, for the distribution of a memorandum to STB staff outlining “Best Practices” for maintaining/storing documents that may be the subject of a FOIA request. However, after conferring with staff about their FOIA concerns, the FOIA Officer determined that the scope of the memorandum should be significantly expanded to answer many other staff questions about the FOIA process. As a result, the project has taken longer, but the expanded memorandum is now in the final stages of review, and is expected to be distributed to staff this month.

D. Additional narrative statements regarding other executive order-related activities (optional)

E. Concise descriptions of FOIA exemptions

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. Time range of requests pending at this time, by date of request (or, where applicable, by date of referral from another agency).

One request pending dated January 24, 2007.

2. Time range of consultations pending with other agencies at this time.

No consultations are pending.