

2015 Chief FOIA Officer Report¹

National Capital Planning Commission

Chief FOIA Officer: Anne R. Schuyler, General Counsel

I. Steps Taken to Apply the Presumption of Openness

FOIA Training

1-3. During the reporting period, there was only one National Capital Planning Commission (NCPC) staff person – the Chief FOIA Officer -- substantively involved in the FOIA Process, and she did not attend any FOIA formal training. In last year's report, the Chief FOIA Officer committed to take The Department of Justice's Advanced Freedom of Information Act Seminar scheduled for April 2015. DOJ advises that course is now full and no further participants are being accepted. That being the case, and given the minimal scope of NCPC's FOIA program (9 FOIA requests in 2013, 14 in 2014 and only one to date since the start of fiscal year 2015) and the simplistic nature of the requests, any subsequent FOIA training for the Chief FOIA Officer beyond that already taken, is an inefficient use of government resources and the Chief FOIA officer's time.

No response required.

Discretionary Releases

4-7. NCPC has no opportunity to make discretionary requests because of the volume of material disclosed proactively and the absence requests implicating material that can be released on a discretionary basis.

Most of the NCPC information released without resort to a FOIA request relates to applications submitted by Federal and District of Columbia government agencies to the Commission for review and action. At least 4 times a month, the Agency updates its website to provide the latest information regarding projects undergoing Commission review. Project staff follows established guidelines for identifying application materials suitable for posting. Typical information posted includes plans and supporting documentation inclusive of environmental and historic preservation reports prepared by the applicant, the Executive Director's Report and Recommendation, Commission Memoranda of Action, and hearing transcripts.

Other information that is released without resort to a formal FOIA request includes *The Comprehensive Plan for the National Capital: Federal Elements* and other plans prepared by NCPC; the *Federal Capital Improvements Plan for the National Capital Region* following release of the President's Budget; policies adopted by the Commission; and correspondence

¹ This report address those questions for smaller volume agencies because the NCPC received less than 1,000 FOIA requests for FY 2013 and 2014. In actual numbers, NCPC received 14 FOIA requests in 2014 and 9 in 2013.

between the Commission and the Congress, other Federal and District government agencies, and members of the public.

8. N/A

Other Initiatives

9. The NCPC adopted updated FOIA regulations effective March 31, 2014. Section 456.5(b) describes the types of records that NCPC will routinely make available without resort to a formal FOIA request. Further, the NCPC revised its Open Government Plan during the reporting period. The new Open Government Plan is posted on the agency's website (www.ncpc.gov) and continues the agency's goal of maximizing public knowledge of agency actions.

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

Personnel

No response required.

Processing Procedures

1. During FY 2014, the NCPC did not receive any requests for expedited processing.

2. N/A

D. Requester Services

3. NCPC adopted new FOIA regulations effective March 31, 2014. The new regulations advise requesters of the availability of mediation services offered by the Office of Government Information Services (OGIS) at the National Archives and Records Administration. Contact information is also provided. The regulations require notification of OGIS's services in the letter denying a requesters appeal.

4. The NCPC did not assess any fees during the reporting period. However, the newly adopted FOIA regulations are clear on how fees will be assessed and what costs will be used to calculate fees. See, Section 456.14

5. The NCPC did not assess any fees during the reporting period. However, the newly adopted FOIA regulations stipulate that for fees in excess of \$50.00 NCPC must notify requested of the actual or estimated fees unless the number calculated falls within the amount the requester has agreed to pay in his/her request. See, Section 456.14(c).

6. NCPC is already operating an efficient and effective FOIA system. It has no need to undertake any additional steps to ensure such operation.

III. Steps Taken to Increase Proactive Disclosures

Posting Materials

1. See response to Question I.4-7 above.
2. The Chief FOIA Officer works in close contact with all agency personnel to ensure timely posting of materials of interest to the public which are potential subjects of a formal FOIA request. This interaction is facilitated by the small size of the agency (33 full time employees). The Chief FOIA Officer is intimately involved in all important issues confronting the agency because of her full time position as General Counsel (GC) and staff's consistent involvement of the GC in their work.
- 3-4. See, response to question I. 4-7 above.

Other Initiatives

5. No further comments.

IV. Steps Taken to Greater Utilize Technology

Online Tracking of FOIA Requests and Appeals

No response required.

Making Material Posted Online More Useful

- 1-2. NCPC is working on improving the quality of its written documents through use of non-technical terms and a plain, straight-forward writing style. NCPC's website is also constantly being improved to ensure a user friendly approach to accessing information. The NCPC's Office of Public engagement also seeks feedback on the content and presentation of posted materials and seeks out useful sites that allow for more proactive public comment opportunities on posted materials, .e.g. Mind-mixer.
- 3-4. NCPC has not encountered challenges that make it difficult to post records that it would otherwise like to post.

Use of Technology to Facilitate Processing of Requests

No response required.

Other Initiatives

5. NCPC records substantiate submission of at least three quarterly reports (2nd, 3rd and 4th quarters). It is unclear whether the remaining report was filed.

6. If NCPC failed to submit one quarterly report, it is the result of oversight on the part of the Chief FOIA Officer due to the press of substantive work associated with her full time agency position as GC. NCPC's Chief FOIA Officer will place timely reminders on her work calendar to ensure timely filing of all quarterly reports due in FY 2015.

7. NCPC utilizes e-mail as a means of communication with FOIA requesters. Most, if not all, of NCPC's FOIA requests are transmitted by e-mail, and NCPC responds in-kind. NCPC also uses e-mail to clarify and perfect requests.

8. N/A

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

Simple Tract

1. NCPC utilizes a separate track for simple requests. All but one request fell into this category during FY 2014.

2. The average number of days to process a simple request was 3.75 days.

3. Ninety-three percent (13 out of 14) of NCPC processed FOIA requests for FY 2014 fell into the simple tract category.

4. N/A

Backlogged Requests

5. NCPC did not have a backlogged requests at the close of FY 2014.

6. N/A

Backlogged Appeals

7. NCPC did not have a backlog of appeals at the end of FY 2014.

8. N/A

Backlog Reduction Plans

No response required.

Status of Ten Oldest Requests, Appeals, and Consultations

9. In FY 2014, NCPC did not have any requests pending and carried over from FY 2013.

10-11. N/A

Ten Oldest Appeals

12. In FY 2014, NCPC did not have any appeals pending and carried over from FY 2013.

13. N/A

Ten Oldest Consultations

14. In FY 2014, NCPC did not have any consultations pending and carried over from FY 2013.

15. N/A

Additional Information on Ten Oldest Requests, Appeals, and Consultations

16-18. N/A

Interim Responses

No response required.

Use of the FOIA's Law Enforcement Exclusions

NCPC did not invoke any statutory law enforcement exclusions during FY 2014.

Success Story

NCPC adopted new FOIA regulations effective March 31, 2014. The regulations replace NCPC's antiquated regulations dating back to 1982. The new regulations are a comprehensive source of NCPC's FOIA rules and address issues previously not addressed in the older regulations to include, among others, multi-track processing, consultations and referrals, classified and controlled unclassified information, and confidential commercial information. They also contain an updated fee schedule with detailed information on the calculation of fees. These regulations should stand the agency in good stead as it moves forward in the future with implementation of its FOIA program.