

2018 Chief FOIA Officer Report

National Capital Planning Commission

Chief FOIA Officer: Anne R. Schuyler, General Counsel

A. Introduction.

The National Capital Planning Commission (NCPC or Commission) is the federal planning and zoning authority for the federal and District of Columbia Governments in the National Capital Region.¹ NCPC's primary mission includes (1) review of project plans for development on federal land to determine consistency with the Federal Elements of the Comprehensive Plan for the National Capital; (2) preparation of the Federal Elements of the Comprehensive Plan for the National Capital; and (3) preparation of a six-year federal capital improvements program for use by the Office and Management and Budget in its preparation of the President's budget.

NCPC is a small independent federal agency. It consists of a staff of thirty-five individuals with expertise in urban and regional planning, architecture, landscape architecture, finance, law, and administration among others. The Commission is comprised of twelve members, three appointed by the President, two appointed by the Mayor of the District of Columbia, and seven ex-officio members including the Secretary of Interior, the Secretary of Defense, the Administrator of the General Services Administration, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, the Chairman of the Senate Committee of Homeland Security and Government Affairs, and the Chairman of the House Committee on Oversight and Government Reform or an alternative any of these individuals designates.

During Fiscal Year (FY) 2017, NCPC received 12 Freedom of Information Act (FOIA) requests. All requests fell within the simple category. Of the 12 requests received, NCPC provided all responsive records for six of the requests and denied six requests because of the absence of any responsive records. NCPC invoked no exceptions or exemptions, received no administrative appeals, received no expedited processing requests, and collected no fees. NCPC took an average of 3.6 days to respond to the requests and a median response time of 3.5 days. The shortest response time was less than one day and the longest response time was eight days. There were no backlogged requests at the start of FY 2017, and there were no backlogged requests carried over to FY 2018.

B. Steps to Apply a Presumption of Openness.

NCPC strongly supports the presumption of openness. During FY 2017, NCPC preemptively posted approximately 731 documents on its website. These documents included agency plans and policies; project materials for applications submitted to the Commission for review; two reports

¹ The National Capital Region or NCR is defined in NCPC's authorizing legislation as "the District of Columbia; Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudon, and Prince William Counties in Virginia; and all cities in Maryland and Virginia in the geographic boundaries of the combined area of the Counties listed. See, 40 U.S.C. 8702(3).

submitted to the Commission by the Executive Director, one applicable to specific projects and one reporting on actions taken by the Executive Director pursuant to delegations from the Commission; meeting transcripts; Memorandums of Commission actions; and Commission meeting agendas. During the reporting period, NCPC did not withhold any documents based on an exception or exemption. Moreover, although not called upon to issue any partial disclosures, NCPC strongly supports the concept of partial disclosure and undertakes this approach when appropriate.

C. Steps to Insure the Agency Has an Effective System in Place for Responding to Requests.

NCPC's Chief FOIA Officer operates a highly effective and efficient FOIA program. The Chief FOIA Officer receives copies of all requests; ensures they are entered into a FOIA log created to track information about each request; works with agency staff to produce responsive records; monitors response times to ensure compliance with statutory time limits; and when questions arise regarding requests, ensures prompt communication with the requester to clarify and perfect the request. Because NCPC responds to all requests well within the legally mandated time period, there is no need for "still interested" inquiries. Finally, although NCPC did not receive any requests for expedited processing, such a request is rarely necessary given an average response time during the reporting period of 3.6 days and a median number of 3.5 days.

To enhance the effectiveness of NCPC's FOIA program during FY 2017, the Chief FOIA Officer undertook a notice and comment rule-making to revise the agency's FOIA regulations to reflect the requirements of The FOIA Improvement Act of 2106. Additional revisions included a reorganized section on fees to render this section more user friendly. NCPC published its revised regulations as a proposed rule in the Federal Register on August 1, 2017, and having received no comments, published a final rule in the Federal Register on September 20, 2017. The revised FOIA regulations became effective on October 20, 2017

D. Steps to Increase Proactive Disclosures.

NCPC routinely posts on its website all application materials submitted to the Commission for each application, the Executive Director's Report on each application, a Memorandum of Action stating the Commission's decision on each application, meeting transcripts, all plans and studies prepared by the agency, policy statements not published in the federal register such as the Submission Guidelines (outlines the materials applicants must submit to the Commission in support of their application), and guidance to the public on how and opportunities to participate in the Commission's decision-making process. Because NCPC's FOIA requests tend to focus on esoteric subjects, it is rare that the responsive records become the subject of subsequent requests or are requested three or more times. Although NCPC lacked the opportunity to post frequently requested records during FY 2017, NCPC's Chief FOIA Officer scrutinizes all requests to determine if a request presents an opportunity to proactively disclose on NCPC's website information likely to be requested by three or more individuals.

E. Steps to Insure Greater Utilization of Technology.

NCPC utilizes technology to the maximum extent possible in the operation of its FOIA program. Most of NCPC's FOIA requests are transmitted via e-mail, and NCPC responds in kind. NCPC also uses e-mail to communicate with requesters when clarification is required or perfection of a request is necessary. As required, NCPC provides its quarterly report for use by the Department of Justice (DOJ), and in FY 2017, NCPC made all four quarterly reports available to DOJ. Further, NCPC's underwent a complete makeover in 2017. The purpose of the makeover was to make the website more user friendly, improve search capacity, and make information available through mobile applications. Finally, NCPC's Office of Public Engagement, the entity within NCPC charged with oversight of the website, seeks constant feedback on the content and presentation of posted materials and will continue to do so in the future.

F. Steps to Improve Timeliness in Responding and Reducing Backlogs.

NCPC's Chief FOIA Officer ensures timely responses to all FOIA requests and ended the period covered by this report without a backlog.

G. Efforts to Ensure FOIA is Administered in a Spirit of Cooperation and examples of Steps Taken to Ensure Good Communication and Good Customer Service when Working with Requesters.

NCPC's Chief FOIA Officer embraces the concepts of cooperation, good communication and good customer service. This includes, among others, helping requesters frame their responses to obtain information rather than summarily denying a request that is unlikely to produce the right documents; explaining why a request did not result in the production of any documents; and minimizing response times to the maximum extent. Requesters frequently thank the Chief FOIA officer for the level of assistance provided.