

## **2019 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 Government in the National Capital Region.<sup>1</sup> 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 of 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-two 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) 2018, NCPC received eight Freedom of Information Act (FOIA) requests. All requests fell within the simple category. Of the eight requests received, NCPC provided all responsive records for five of the requests and denied two requests because of the absence of any responsive records. Because the records in one request were not reasonably described, NCPC did not respond to this request, which is considered a "denial" for certain aspects of FOIA reporting. NCPC invoked no exceptions or exemptions; received no administrative appeals; received three expedited processing requests, all of which were moot because of extremely short response times (median and average number of response days were 1 and 1.3 respectively); received three fee waiver requests, all of which were moot since no fees were assessed given the limited search time and absence of duplication associated with the applications. Overall, NCPC collected no fees. Further NCPC took an average of 2.57 days to respond to requests and had a median response time of two days. The shortest response time was one day and the longest response time was eight days. There were no backlogged requests at the start of FY 2019, and there were no backlogged requests carried over to FY 2019.

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<sup>1</sup> 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).

## **B. Steps to Apply a Presumption of Openness.**

NCPC strongly supports the presumption of openness. During FY 2018, NCPC preemptively posted approximately 614 documents on its website. These documents included agency plans and policies; project materials for applications submitted to the Commission for review; two reports 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 digital 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 in an effort 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.

NCPC undertook no efforts to enhance the effectiveness of NCPC's FOIA program during FY 2018. Instead the Chief FOIA Officer focused on implementing, new, improved regulations (adopted September 20, 2107). These revised regulations focused on streamlining and increasing the efficiency of the agency's FOIA program.

## **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 opportunities for public participation and the process to follow to become engaged. 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 2018, 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 2018, NCPC made all four quarterly reports available to DOJ. Finally, NCPC's Office of Public Engagement, the entity within NCPC charged with oversight of the agency's website and its contents, seeks constant feedback on the content and presentation of posted materials and constantly updates the website to ensure timely presentation of information and ease of use by the public.

**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.