

**POSTAL REGULATORY COMMISSION  
CHIEF FOIA OFFICER REPORT  
March 8, 2011**

The Postal Regulatory Commission (Commission) submits this Chief FOIA Officer Report at the direction of the United States Department of Justice Office of Information Policy. The report has been prepared by the Secretary of the Commission, Shoshana M. Grove, who serves as the Chief FOIA Officer.

The Commission is an independent establishment of the Executive Branch that exercises regulatory oversight over the Postal Service. The Commission consists of five Commissioners and a staff of approximately 70: the Commissioners' staff, the Office of the Secretary and Administration, the Office of General Counsel, the Office of Public Affairs and Government Relations, the Office of Accountability and Compliance, and the Office of Inspector General. The PRC's mission is to ensure transparency and accountability of the United States Postal Service and foster a vital and efficient universal mail system.

Tasked with providing transparency into and accountability regarding the Postal Service's operations, the Commission takes its responsibilities under the FOIA seriously. The Commission takes substantial steps to proactively publish information of interest and importance to users of the mail, including the general public.

The Commission is committed to processing FOIA requests within the statutory deadline and with minimal use of exemptions.

The remainder of this report is divided into sections specifically enumerated by the Department of Justice Office of Information Policy.

Shoshana M. Grove  
Secretary and Chief FOIA Officer



## I. Steps Taken to Apply the Presumption of Openness

### 1. *Description of specific steps the Commission has taken to ensure the presumption is being applied to all decisions involving the FOIA*

On October 23, 2009, the Commission issued its final rules governing the administration of the FOIA. The rules were amended as a result of the Openness Promotes Effectiveness in our National Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524 (OPEN Government Act), the President's January 21, 2009 Memorandum for the Heads of Executive Departments and Agencies, 74 FR 2683 (January 26, 2009), and the Attorney General's Memorandum for the Heads of Executive Departments and Agencies, March 19, 2009. See PRC Order No. 322, Order Establishing Procedures for the Freedom of Information Act, Docket No. RM2009-6.

The amendment to the Commission's FOIA rules publicly aligned Commission policy with the express direction from the President and Attorney General. The amendment also updated the Commission's FOIA policies to conform to the OPEN Government Act.<sup>1</sup>

The Commission operates under a presumption of openness. See 39 C.F.R. § 3004.2 which describes the Commission's responsibility to proactively and systematically, post public records in advance of any request and to administer its duties under the FOIA with a clear presumption of openness. As a result, the Commission became the first federal agency to adopt rules that incorporated an explicit presumption of openness.

The Chief FOIA Officer, the Office of General Counsel, and all personnel involved in processing or responding to FOIA requests are aware of the rule. Commission staff tasked with drafting initial responses is instructed to apply the presumption of openness. Additionally an email was sent to all Commission staff regarding the President's FOIA memorandum and the Attorney General's guidelines. Both the memorandum and guidelines were attached to the email.

As a result of the ongoing proactive release of information by the Commission during FY 2010, the Commission received relatively few FOIA requests.

A notable example of the Commission's proactive disclosure is that it invoked zero FOIA exemptions under the statute during FY 2010. The Commission's Office of General Counsel routinely reviews material for exemption and possible discretionary release. See FY 2010 Freedom of Information Act Annual Report at 5.

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<sup>1</sup> Substantive changes to the FOIA regulations included a declaration of the presumption of openness, a provision to allow partial grants of requests, a mechanism for requesters to receive a tracking number for each FOIA request, a rule barring the collection of fees if the Commission does not comply with the 20 working day time limit, and a designation of the FOIA Public Liaison and Chief FOIA Officer. The rules also clarify the relationship among the FOIA, the Privacy Act and the Commission's procedures for according appropriate confidentiality to proprietary records.



By the end of FY2011, we are planning to provide training on the new FOIA Guidelines to all Commission staff who are tasked with FOIA responsibilities.

*2. Report on the change in number of requests where records have been released in full compared to the previous year's Annual FOIA Report*

In FY 2009, the Commission received 22 requests, with one carryover from the previous fiscal year. The Commission granted 6 of the requests in full. However, the Commission did not use any exemptions in FY 2009, and was unable to process the remainder of the requests because the agency had no records (3 requests), the request was referred to another agency (2 requests) or the record was not a Commission record (11 requests). See FY 2009 Freedom of Information Act Annual Report.

In FY 2010, the Commission received 30 requests, with one carryover from the previous fiscal year. The Commission granted 9 of the requests in full. However, the Commission did not use any exemptions in FY 2010, and was unable to process the remainder of the requests because the agency had no records (5 requests) or the request was referred to another agency (16 requests).

Each year, several requests seek records belonging to the Postal Service and not the Commission. These requests are forwarded to the Postal Service.

The Commission granted more requests in full during FY 2010 than it did during FY 2009. In both FY 2009 and FY 2010, the Commission responded in full to 100 percent of the requests that it was able to process. The remainder were requests for records that were not Commission records, *e.g.*, forwarding addresses for postal patrons, or where the Commission conducted a search and discovered no records.

When members of the public contact the Commission by email, fax, phone or mail seeking information or records, Commission staff makes an affirmative effort to assist them with their inquiries. Ordinarily, this involves directing them to the proper documents or files on the Commission's website. In some cases, Commission staff members take steps to research answers to questions or to provide clarification to the individual contacting the agency. As a result, the need for the filing of a FOIA request is minimized.



## **II. Steps Taken to Ensure that the Commission has an Effective System In Place for Responding to Requests**

The Commission allocates staff resources and administrative time to ensure that it provides accurate, timely responses to all FOIA requests. In FY 2010, the average number of days to process a request was 6 days. The median response time is 3 days. The highest number of days was 20.

The Chief FOIA Officer has ensured that the electronic, faxed, and mailed FOIA requests are logged and read on the day they are received. Administrative staff is responsible for assigning a tracking number to each request, and posting that tracking number, along with a summary of the request, on the FOIA section Commission's website.

When a request is made, the Chief FOIA Officer responds (with any responsive documents) expeditiously. If the request is complicated or voluminous, the Chief FOIA Officer conducts a search for records; may contact the requester for additional information clarifying the request and may refer the request to the Office of General Counsel for a legal determination of the appropriate Commission response.

Effective communication among offices at the Commission and timely response by Commission employees to requests for records ensure that the Commission responds to all requests in an expeditious manner. The Commission consistently responds to requests well before the statutory deadline and in all cases has responded within the statutory deadline.

The Commission also maintains a FOIA case log on its website that provides visibility into the types of records requested under FOIA as well as the number of days required to respond to each request. The logs are posted on the website going back more than ten years. A link to these FOIA records is maintained on the Commission's website.

As a micro-agency (fewer than 100 employees), the FOIA professionals interact directly with Open Government team members. Additionally, the IT staff provides direct support when needed to ensure that FOIA requests are researched and posted quickly. As seen by our FOIA statistics, we respond to the small number of requests received within the timelines necessary. This provides an assessment to the Chief FOIA officer that staffing is adequate to respond to FOIA requests.



### III. Steps Taken to Increase Proactive Disclosures

The Commission applies several policies and rules which have increased the number of proactive disclosures that it makes.

The Commission established a series of monthly public meetings and publicly broadcasts and archives audio streams and recordings of these meetings on the Commission website. The Commission publishes transcripts online of Commission hearings, as well as most meetings and related events.

Commission rule 39 C.F.R. § 3004.2(a) states “[t]he Commission shall be proactive, and systematically, in a timely manner, post public records online in advance of any public request.” The Commission has posted information on its website relating to matters and hearings before the Commission, Commission Reports and Orders, Postal Service initiatives and reports, Commission meetings, and details of all inquiries to the Commission’s Office of Public Affairs and Government Relations.

The Commission has also issued a number of rules prescribing the types of data and information the Postal Service must file with the Commission on a regular basis. See Docket No. RM2008-4, Order No. 203, Notice of Final Rule Prescribing Form and Content of Periodic Reports. These rules give the Postal Service and interested parties notice as to the types of records the Commission maintains, and the types of Postal Service records the Commission has in its custody and control.

39 C.F.R. Part 3007 – Treatment of Non-Public Materials Filed with the Commission -- implements a statutory balancing test established in the Postal Accountability and Enhancement Act that balances the public’s right to know with the need to ensure appropriate protection for commercially sensitive information. The rule provides an independent mechanism, separate from FOIA, for seeking individualized access to non-public information, as well as for challenging a non-public designation.

Notably, the Commission’s rules establish a sunset provision that removes the non-public status ten years after protection is granted, unless the Commission issues an order extending the non-public status.<sup>2</sup> The existence of these mechanisms provides the public with an additional means of challenging the validity of non-public status where non-public status is at issue, and thus serves to maximize proactive disclosure at the outset.

The Commission’s Office of Public Affairs and Government Relations receives numerous public inquiries. Such inquiries range from questions about Postal Service employee conduct to consolidation of mail processing facilities. The Commission maintains and publishes a detailed cumulative log of these public inquiries, together with a description of the action taken by the Commission to resolve the inquiry. Given the nature of such requests, and the insight the resolution of each may provide to the public, this log is another

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<sup>2</sup> This “sunset” provision not only provides a date certain reducing the administrative burden associated with maintaining protected materials, but facilitates public access to previously protected documents more than ten years old.

example of the Commission's ongoing commitment to posting records in advance of any public request.

All Commission staff are encouraged to recommend records for posting. Part of the mission of our agency is to provide transparency to the public, and proactive disclosure is integral to this mission.



## **IV. Steps Taken to Greater Utilize Technology**

### *1. Electronic receipt of FOIA requests*

The Commission utilizes a web-based email form on its FOIA page to accept FOIA requests.

### *2. Electronic tracking of FOIA requests*

The OPEN Government Act requires the use of tracking numbers for all FOIA requests. The Commission uses an electronic tracking number system to track all FOIA requests.

Each FOIA request is assigned a tracking number, and that tracking number is provided on the Commission's website along with a description of the request. Rule 39 C.F.R. § 3004.42 describes the Commission's tracking number policy, and provides information on how to track a request. Information about the tracking numbers is also provided on the Commission's FOIA online request form.

### *3. Electronic processing of FOIA requests*

The Commission uses technology, when appropriate, to process and respond to FOIA requests. The Commission utilizes email to receive requests, coordinate searching for responsive records and to track internal decision-making for each request. The Commission also utilizes web-based technology to receive, track and report on FOIA requests. The Commission utilizes computer searches to process all requests that seek records that the Commission stores electronically.

Some Commission records are only available in hard-copy format. Therefore, while the Commission uses technology to track and coordinate its response to a request for such a record, any search for responsive records or response is constrained by the limitation that the underlying records are only available in hard-copy format.

The Commission has endeavored to transfer its older archived paper files to electronic format, and has made those archived documents available via its website. The archive section of the Commission website now contains a complete record of web-based "laser-fiche" documents from the Commission's precursor, the Postal Rate Commission, which includes notices, orders, advisory opinions, and decisions. The Commission is undertaking substantial efforts to transfer these legacy records into a more user-friendly database, and will continue that task in FY 2011.

### *4. Electronic preparation of the Annual FOIA Report*

The Commission uses technology to generate all the data and tables included in its Annual FOIA Report.



## *5. Overall Conclusions on Agency use of Technology*

The Commission is able to utilize the same database and spreadsheet applications that it uses to track and process FOIA requests to prepare the report. Using the same technology reduces the burden on Commission staff by avoiding numerous calculations and tabulations. Use of this technology also makes the quantitative analysis more accurate.





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

### *1. Backlog of requests increase or reduction year over year*

There were no backlog requests at the end of FY 2009 or FY 2010.

### *2. Explanation of lack of reduction*

N/A

### *3. Commission action to improve timeliness in responding to requests and to administrative appeals*

The Commission attempts to continually improve its timeliness and efficiency in responding to FOIA requests and administrative appeals. One improvement made during FY 2010 was the speed at which requests are disseminated to responding staff. We have set a goal to complete all requests within the statutory timeline, and we monitor this through a bi-weekly review of FOIA requests received.

The Commission also found that through proactively posting more of its records online, and accurately describing the records, over which the Commission has custody and control, the Commission significantly reduced the overall volume of FOIA requests and specifically reduced requests for which the Commission has no records. We have also improved online search capability for archived documents to allow for access to older Commission documents.

Our Chief FOIA Officer has been the driving force to ensure that the Commission has the capacity to process requests and to ensure that requests are processed in a timely manner.

## **VI. Spotlight on Success**

The Commission has not claimed any exemptions in responding to requests during the last two fiscal years, notwithstanding that such exemptions could reasonably be interposed.



*This final report was submitted via email to the Department of Justice, Office of Information Policy, for review on February 4, 2011. It was sent to [DOJ.OIP.FOIA@usdoj.gov](mailto:DOJ.OIP.FOIA@usdoj.gov) as required by the Department of Justice, Office of Information Policy guidelines for the preparation of this report. A copy of this report will be posted on the Postal Regulatory Commission's website on or around March 8, 2011.*

