

CHIEF FOIA OFFICER'S REPORT
NATIONAL CAPITAL PLANNING COMMISSION
MARCH 1, 2012

The National Capital Planning Commission (“NCPC” or “Agency”) submits this report in response to the request of the United States Department of Justice, Office of Information Policy’s e-mail of September 21, 2011. This report was prepared by Anne R. Schuyler, General Counsel and Chief FOIA Officer.

Background Information

The NCPC is a small government agency with 40 regular employees and 12 Commission members. The NCPC is the central federal planning agency for the Federal Government in the National Capital Region.¹ Five of the NCPC Commissioners are appointed, three by the President without Senate confirmation and two by the Mayor of the District of Columbia. The remaining members are ex-officio members representing the Secretary of Defense, the Secretary of Interior, the Administrator of General Services, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, the Chairman of the Senate Committee on Homeland Security and Government Affairs, and the Chairman of the House Committee on Oversight and Government Reform.

The NCPC core mission is to review plans and projects of Federal and District Government agencies in successive stages (concept, preliminary and final), derivation of the Federal Elements Comprehensive Plan (“Comprehensive Plan”) to guide Federal and District Government development in the National Capital region, and preparation of a Capital Improvements Plan (“CIP”) to prioritize federal agency capital expenditures on government facilities. The Agency also undertakes planning studies on issues derived from the Comprehensive Plan that require further detail and analysis.

The NCPC FOIA team consists of three individuals – the Chief FOIA Officer, an Alternative FOIA Officer and an Information Resource Specialist. The Chief FOIA Officer has read and understands the President’s FOIA Memorandum and the Attorney General’s FOIA Guidelines. The other members of the FOIA team are also aware of these seminal documents and the guidance they provide.

During the reporting period (2/1/2011 – 2/1/2012), the NCPC received 24 FOIA requests. The NCPC provided full releases (released all responsive records in its possession) for 10.5 of the

¹ The National Capital region consists of 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 or Virginia in the aforementioned region.

requests. The Agency denied 12.5 requests because there were no responsive records in its possession. The Agency denied 1 request because of an exemption (deliberative process). Three of the NCPS's denials – two for no records and one for application of the exemption – were appealed and the denials were subsequently upheld. Notwithstanding the denial of the appeal regarding application of the exemption and withholding of records, the Agency ultimately released the requested records.

The NCPC is very open in its work with regard to public participation and endeavors to include and reach out to the public to the maximum extent possible.

I. Steps Taken to Apply the Presumption of Openness

1. During the reporting period, the NCPC did not hold a FOIA conference or otherwise conduct training.
2. None of the Agency's three FOIA professionals attended FOIA training during the reporting period.
- 3 - 4. During the reporting period, only one request was made for records subject to exemption pursuant to §552(b)(5) of the Freedom of Information Act, as amended. The Agency denied release of the records requested because they pertained to an internal operating plan that was not complete at the time of the request. Upon appeal, the Agency released the information even though the appeal was denied.
5. The NCPC's FOIA requests are very straightforward. It is easy to determine whether the Agency has or does not have any responsive records to respond as appropriate in a timely manner.
6. At least 4 times a month, the Agency updates its website to provide the latest information regarding projects undergoing review by the Commission. Plans related to the NCPC's core mission (Comprehensive Plan and CIP) can be accessed through the website. The Agency frequently updates its website to add reports, new information regarding ongoing planning initiatives, and recently completed plans.
7. The Agency received 24 FOIA requests during the reporting period and provided full releases for 10.5. Twelve and one half requests were denied because the Agency had no records. Only one request was denied because of application of an exemption, and although this denial was subsequently appealed by the requester and upheld by the Agency, the Agency did release the requested records.

Last reporting period NCPC provided full releases for 12 requests. Therefore there was a net decrease of 1.5 FOIA requests for which full releases were made. But note, the reduction was not the result of a decision by NCPC to withhold information but resulted because NCPC did not have responsive records it could release.

8. During the reporting period, there were no requests where records in the Agency possession were released in part and withheld in part. Accordingly, there is no increase the prior year.

II. Steps to Ensure an Effective System for Responding to Requests

1. The NCPC's FOIA program has sufficient support from the Agency's IT staff.
2. There is regular interaction between the Agency's two FOIA professionals and the Chief FOIA Officer. Specifically, upon receipt of a FOIA request, the request is immediately forwarded to the Chief FOIA Officer who reviews the request, ensures it is logged in to the NCPC's electronic tracking system, determines, often with the assistance of Agency staff, if the NCPC has any responsive records and what they are. The Alternative FOIA Officer serves as back-up for the Chief FOIA Officer and performs FOIA duties on an as needed basis. An NCPC Resource Specialist maintains the electronic tracking system and retains both electronic and hard copies of all FOIA requests and responses.
3. The Agency's FOIA professionals are part of the Open Government Team. The Chief FOIA Officer worked closely with staff on the development of the Open Government Plan.
4. Because of the small number of FOIA requests on a FY basis (19 in FY 2010 and 17 in FY 2011), the NCPC has adequate FOIA staff to respond to requests. As further evidence of the adequacy of staff, the NCPC has a very short response time (average response time in FY 11 was six days), and it has no backlog of FOIA requests awaiting a response.
5. The NCPC does not need to take any additional steps to ensure its FOIA system operates efficiently and effectively. It is already doing so.

III. Steps Taken to Increase Proactive Disclosures

- 1 -2. The NCPC is continually updating its website to reflect the Agency's ongoing project plan review activities, new initiatives and events. This includes:

- Monthly posting of Commission meeting agendas, staff reports, and project summaries. In addition, live video from Commission meetings is streamed and archived on the website.
 - Posting of all agency publications. New publications this year include the 2012-2017 Federal Capital Improvement Program, FY 2011 Annual Report, the CapitalSpace Progress Report, and several studies related to flooding in the nation's capital.
 - Adding several micro sites for new agency initiatives, including the President's Park South Design Competition, Urban Design Initiative (Comprehensive Plan Element), and the Beyond Granite Design Competition (competition to secure a designer for a temporary Earth Day related statute on federal property).
 - Creating an interactive map of all federal commemorative sites, sorted by theme (which received widespread public use).
 - Posting over 70 online videos, including speaker events, presentations explaining agency initiatives, and meetings.
3. The NCPC's goal is to post any and all information that has value to citizens interested in learning more about projects reviewed by the Commission and the Agency's planning projects and initiatives. All information posted on the Agency website and social media is identified and reviewed by staff and/or external partner agencies. Coordination with Agency Management occurs prior to posting.
 4. During the reporting period, the NCPC developed and solicited public comment on the Agency's Open Government Plan, which discussed what types of data the agency should make available, and possible online tools for presenting such material. The Agency also solicited input, among others, on the formatting of its project recommendations. The NCPC staff also meets informally with members of the media and stakeholder groups to discuss possible improvements to make the website more user-friendly.
 5. See, questions 1-4 above.

IV. Steps Taken to Greater Utilize Technology

1. The NCPC receives requests electronically. During the reporting period, nine requests were received electronically.

2. The NCPC does not process requests on a decentralized basis.
- 3-4. A FOIA requester cannot track their request electronically. Given the quick turn around on responses, and the few number of requests received, there is little need for an electronic tracking system. The Agency does not contemplate development of a tracking system because it would not be cost effective.
- 5-6. The NCPC is not taking steps to utilize more advanced technology to facilitate overall FOIA efficiency because of the small number of requests received, the already efficient Agency response times, and because it is not cost effective to procure and implement advanced technologies.

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

1. The NCPC does not use a multi-track system. The average number of days to process all requests in FY 2011 was six days. The average number of days to process a request in FY 2010 was 3.5 days.
2. The NCPC had no backlog of requests or appeals in either FY 2011 or FY 2010.
3. Because the NCPC has no problems with timeliness in responding to requests or appeals, the NCPC is not taking any steps to improve its response times. However, the NCPC intends to continue its goal of timely response, monitoring its caseload to ensure timely response and taking any and all steps to increase efficiency if and when necessary.
4. NCPC did not receive or refer any consults from/to other agencies.

Use of FOIA's Law Enforcement "Exclusions"

- 1 -2. The NCPC did not apply any exclusions during the reporting period.

Spotlight on Success

To increase public awareness of Commission's activities, the NCPC began live streaming of Commission meetings in spring 2011. This renders it possible for interested members of the public to view the meeting without having to travel to the Agency's offices. The video of the entire meeting is later posted on the Agency's website for those who might not have been able to view the meeting at its scheduled time.