

Metrorail Safety Commission

March 13, 2018

Agenda Item # 4 – Action

Adoption of MSC Policies

Background

Federal statutory (49 USC §5329) and regulations (49 CFR Part 674) requires the MSC to adopt the following policies to guide its functioning as a State Safety Oversight Agency (SSOA). Staff with the assistance of the MSC's legal counsel has developed the following policy document:

A. Conflicts of Interest Policy to identify, document, eliminate, or sufficiently mitigate legal or financial conflicts. The policy will affect the way Board members and employees that interact with WMATA. Upon adoption, members of the Commission will have up to five working days to sign and submit their signed copies acknowledgement of the Conflicts of Interest Policy.

B. Freedom of Information Act (FOIA) Policy to adhere to the transparency and public access provisions of the Freedom of Information Act ("FOIA") codified at 5 U.S.C. § 552(a)-(d) and (g). The MSC is not subject to state freedom of information laws.

C. An Open Meetings Policy to conduct and dispose of all meetings in accordance with the Government in the Sunshine Act codified at 5 U.S.C. § 552b ("Sunshine Act"). The MSC is not subject to state open meeting laws.

Issues

None

Staff

Recommendation

Receive briefing from staff and adopt Resolutions - MSC 02-2018 (Conflicts of Interest Policy); MSC 03-2018 (Freedom of Information Act Policy) and MSC 04-2018 (Open Meetings Policy).

to the FOIA Administrator along with copies of all other relevant documents and correspondence relevant to the request. The copy should be clearly marked as a FOIA request and include the date of receipt.

2. The MSC will assign and communicate to the requesting party a tracking number for requests that will take longer than 10 days to process.
3. The FOIA Administrator will evaluate the request and determine whether the request seeks Records that are subject to disclosure under FOIA.
4. If the FOIA Administrator determines that the request seeks Records subject to disclosure, the FOIA Administrator will produce responsive Records to the requesting party no later than twenty (20) working days after the FOIA Administrator's receipt of the request, unless an exemption applies under FOIA (see also Section 6(b)(5) below).
5. If the FOIA Administrator determines that the request is not reasonably descriptive or seeks a Record not subject to disclosure under FOIA, the FOIA Administrator will transmit a letter within twenty (20) working days advising the requesting party of the Records that will not be disclosed along with the applicable reason, unless an exemption applies under FOIA (see also Section 6(b)(5) below).
6. If the FOIA Administrator determines that Unusual Circumstances apply to a request for Records, including, without limitation, a request requiring a search of a voluminous amount of separate and distinct records, the FOIA Administrator will notify the requesting party in writing that up to an additional ten (10) working days is required to comply with the request. If the requesting party narrows the Records request, the FOIA Administrator and the requesting party may agree to an alternative time frame for production. In addition, the twenty (20) working day response period may be tolled if the FOIA Administrator makes up to one (1) reasonable request for information from the requesting party or if necessary to clarify fee assessments with the requesting party.

Section 7 – Costs

The MSC will assess a reasonable fee to the requesting party pursuant to FOIA not to exceed the actual costs of reviewing, searching for, and duplicating Records that may be responsive to the request. This fee includes cost for the time spent reviewing Records for determining whether they may be disclosed under FOIA. If the MSC determines that the estimated cost of reviewing, searching for, and duplicating Records will exceed \$250, the MSC may require the requesting party to pre-pay the fee before producing responsive Records.

Section 8 – Appeals

The Executive Director of the MSC or his or her designee will act as the MSC's FOIA Appeals Officer. A requesting party may appeal the FOIA Administrator's determination denying production of Records or for other allowable reasons under FOIA. The requesting party must appeal this decision in writing to the FOIA Appeals Officer within ninety (90) days of the date of the denial. The FOIA Appeals Officer may not be the same person who handled the initial denied request.

Upon timely receipt of an appeal, the FOIA Appeals Officer will take action and transmit his or her decision to the requesting party within twenty (20) working days of receipt of the appeal.