

WASHINGTON METRORAIL SAFETY COMMISSION
777 North Capitol Street, N.E.
Washington, D.C. 20002

RESOLUTION APPROVING
THE ADOPTION OF A FREEDOM OF INFORMATION ACT POLICY OF
THE METRORAIL SAFETY COMMISSION

WHEREAS, federal statutory (49 U.S.C. 5329(e)) and regulatory requirements (49 Code of Federal Regulations (CFR) Part 674) require the establishment of State Safety Oversight Agencies (SSOA) under the Moving Ahead for Progress in the 21st Century Act (MAP-21) and Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) federal legislation along with Federal Transit Administration (FTA) guidance materials; and

WHEREAS, the Metrorail Safety Commission (MSC) has been formed through federal enabling legislation in The District of Columbia, Maryland and Virginia, and the joint resolution of Congress in 2017 (115 H.J. Res. 76, 131 STAT. 1093); and

WHEREAS, the District of Columbia, Maryland, and Virginia have appointed MSC Commissioners to help establish and mobilize the SSOA for the regional Metrorail system; and

WHEREAS, the MSC Freedom of Information Act Policy adheres 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); and

WHEREAS, the MSC has developed the FOIA policy for receipt and processing of requests for public records and is not subject to state freedom of information laws; and

WHEREAS, the MSC will follow the policy's set procedures upon receipt of a written request; and

WHEREAS, 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; and

WHEREAS, the MSC will have an appointed designee as the FOIA Administrator responsible for the coordination and administration of this policy and FOIA requests. The MSC's Executive Director or his or her designee will act as the MSC's FOIA Appeals Officer.

NOW, THEREFORE, BE IT RESOLVED THAT THE METRORAIL SAFETY COMMISSION approves the attached FOIA Policy for the MSC.

**The Metrorail Safety Commission
Freedom of Information Act Policy**

Records Requests

Section 1 – FOIA Policy

It is the policy of the Metrorail Safety Commission (MSC) 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.

Section 2 – Definitions

- (a) All capitalized but undefined terms here will have the meaning designated in FOIA.
- (b) “Records” means any tangible documents or recordings of any kind used in the transaction of public working and possessed by the MSC, including, without limitation, email, video tapes, computer data, handwritten notes, and draft documents.

Section 3 – Purpose

To ensure compliance with FOIA, the MSC has developed the following policy for receipt and processing of requests for public records.

Section 4 – Directive

All requests for records submitted to the MSC will be handled in a timely and responsive manner in accordance with the applicable provisions of FOIA.

Section 5 – Responsible Authority

The MSC appoints Nicholas Ramfos, Director of Transportation Operations Programs of the Metropolitan Washington Council of Governments, MSC’s temporary administrative agent, as the FOIA Administrator responsible for the coordination and administration of this policy and FOIA requests.

Section 6 – Public Inspection; Procedure

- (a) Unless otherwise exempt, all existing Records not subject to an exemption under 5 U.S.C. § 552(b) are open to public inspection and copying pursuant to FOIA. FOIA disclosure requirements only apply to existing Records. The MSC is not required to answer questions about Records or create Records under FOIA.
- (b) The MSC will follow the following procedure upon receipt of a written request:

1. The MSC employees or contractors receiving a FOIA request will promptly, but in no event later than 10 days after receipt, forward a copy of the request 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.