



Document Name:	Freedom of Information Act Policy
Approved by	WMSC Board of Directors
Effective Date:	September 22, 2020

1.0 Purpose

Pursuant to § 21 of the Washington Metrorail Safety Commission (WMSC) Compact (P.L. 115-54), the WMSC is subject to the Freedom of Information Act provisions found at 5 U.S.C. § 552(a)-(d) and (g) (FOIA). This policy sets forth the process the WMSC adheres to when it receives a request for information that may constitute production of a WMSC agency record in accordance with the FOIA.

2.0 Scope

This policy applies to all WMSC agency records but does not require the creation of any records.

3.0 Policy

3.1 FOIA Officer

The Attorney-Advisor and Government Relations Lead will serve as the FOIA Officer.

3.2 Receipt of a FOIA Request; Notice

- (a) Any employee in receipt of a request for information that may constitute a WMSC agency record must send a copy of the request to the FOIA Officer promptly upon becoming aware of the request. Because the WMSC is required by law to respond to requests for agency records within specific timeframes, transmittal of any such request to the FOIA Officer in a timely manner is critically important.
- (b) The FOIA Officer must confirm receipt with the requester and inform the requester whether fees will be assessed in a manner consistent with section 3.3, below.
- (c) The FOIA Officer must provide any employee who may be in possession of information that is potentially responsive to a request with a notice instructing that employee to preserve any potentially responsive records, turn the materials over to the FOIA Officer for review, and provide a timeline for providing such records. In instances where potentially responsive records reside on the employee's WMSC email account or in a shared file drive, the employee will not be responsible for providing copies of the records to the FOIA Officer.



3.3 Fees

The WMSC will assess fees for FOIA requests in a manner consistent with the United States Department of Transportation's then-current fee schedule and related regulations, including whether fees may be waived or reduced in accordance with [49 CFR 7.43](#). As of 2020, the fee schedule and related regulations may be found at [49 CFR 7 Subpart E](#).

3.4 Electronic Search for Records

In the event a request requires an electronic search for potentially responsive records, the FOIA Officer will cause a reasonable search of the WMSC's electronic records to be conducted.

3.5 Employee Opportunity to Review Responsive Records

The FOIA Officer must inform any employee for whom there exist responsive records and, where response deadlines permit, give the employee 48 hours to review such records.

3.6 Production of Records to Requester

- (a) The FOIA Officer will endeavor to complete timely review and production of any responsive records. In the event the FOIA Officer is unable to complete timely review and production of such records, the FOIA Officer must contact the requester and inform the requester of the delay and any reason for it.
- (b) In responding to a request for information that may constitute a WMSC agency record, the FOIA Officer must provide a letter to the requester informing the requester of any exemptions applied to the record and the requester's right to, and process for, an appeal of any denial, in whole or in part, of the request.

3.7 Appeals

The Officers of the WMSC Board will serve as the WMSC's FOIA appeals body. The appeal and any determination related to it must be filed in a manner consistent with the FOIA. In the event the WMSC upholds a denial on appeal, a requester may seek, consistent with the FOIA, judicial review of the determination in a court with appropriate jurisdiction, as provided in § 48 of the WMSC Compact.

4.0 Definitions

For the purposes of this policy, the term:

“Denial” means the redaction or withholding of records, whether in whole or in part, pursuant to 5 U.S.C. § 552(b).



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“Potentially responsive records” means records that are likely to be deemed responsive to a request, including potentially exempt records.

“Request” means any demand for records.