

**National Railroad Passenger
Corporation
“Amtrak”**

**Freedom of Information Act
Handbook**



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NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) FREEDOM OF INFORMATION ACT HANDBOOK

General Information

The National Railroad Passenger Corporation, also known as Amtrak, is not a government agency or establishment. Although Amtrak is a private corporation operated for profit, it is subject to the Freedom of Information Act (FOIA) under provisions of the Rail Passenger Service Act, as amended. *See* 49 U.S.C. § 24301 note.

The purpose of this *Handbook* is to provide you with information regarding how to obtain records from Amtrak under the FOIA, the manner in which Amtrak will respond to your request, and your rights under the FOIA. The information in this *Handbook* is not exhaustive or definitive. Specific requests will be governed by provisions of the FOIA set forth in 5 U.S.C.S. § 552 and in Amtrak's FOIA regulations at 49 CFR § 701.1. Copies of Amtrak's regulations that implement the Act are available in Amtrak's electronic reading room on the FOIA web page of the Corporation's website located at www.amtrak.com.

Policy

In keeping with the spirit and intent of the FOIA, it is Amtrak's policy to make records available to the public to the fullest extent possible.

How to Submit a FOIA Request

Amtrak does not require a special form or format in order to submit a FOIA request. Requests, however, must be in writing and can either be typed or handwritten. It is suggested that you label your request "Freedom of Information Act" or "FOIA" on the envelope in order to ensure prompt delivery of your request to the FOIA Office. We also suggest that you indicate that you are requesting records under the FOIA at the beginning of your request letter.

You may submit your request via mail, or e-mail:

Via MAIL:

Amtrak FOIA Office
1 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Via E-MAIL:

foiarequests@amtrak.com

Content of the Request

To facilitate the processing of your request, we suggest that you provide the following information:

1. Your name, address, daytime telephone number, e-mail address and fax number (if available).
2. A description of the records you are seeking in sufficient detail so that they can be located with a reasonable amount of effort.
3. A written statement indicating that you are willing to pay applicable processing fees.
4. The fee category to which you believe your request should be assigned. The fee categories are listed below:
 - Category I: Commercial Use;
 - Category II: News Media;
 - Category III: Educational or Noncommercial Scientific Institutions;
 - Category IV: Other.

For more information regarding fee categories, please refer to Attachment A.

The more specific you are in describing the information you are seeking, the more likely Amtrak's staff will be able to locate the records requested. A description that adequately describes the records sought may also reduce the amount of search time and associated fees. You should be aware that entities subject to the FOIA are not obligated to respond to questions, analyze data, conduct legal research, or create records in order to respond to a request. The FOIA Office will contact you if your request cannot be processed because additional clarifying information is needed. If you need assistance in formulating your request, please feel free to contact the FOIA Office via e-mail at foiarequests@amtrak.com or at 202/906-3741.

The FOIA Office will also contact you if you have not agreed to pay applicable processing fees. You may specify the amount that you are willing to pay and request that the FOIA Office notify you should processing fees exceed this amount. You may also seek a waiver of fees. Refer to the section on "Waiver of Fees." *See* Amtrak's FOIA Regulations 49 CFR 701.11(k) www.amtrak.com/foia.

Privacy Interests

In order to protect privacy interests, records relating to another person that would invade that person's privacy ordinarily will not be disclosed. For records concerning another individual, either form of the following may be required in order to process the request *See* Amtrak's FOIA Regulations 49 CFR 701.5(f) *Records concerning other individuals* www.amtrak.com/foia:

- A notarized written authorization signed by that individual permitting disclosure of those records to the requesting party, together with a copy of a photo ID of that individual as well as the requesting party; or
- Proof that the individual is deceased (i.e., a copy of the death certificate or an obituary).
A form of identification from the requesting party may also be required.

To obtain records concerning yourself, you must provide personal identifying information and a notarized statement or a statement signed under penalty of perjury stating that you are that person.

Processing Fees

Amtrak will assume that you are willing to pay up to \$25 if you submit a FOIA request unless you provide a written statement indicating that you are willing to pay a greater or lesser amount. If Amtrak determines or estimates that applicable processing fees are likely to exceed \$25, you will be notified of the estimated or actual fees that will be incurred unless a commitment has been made in advance to pay all fees. If only a portion of the fee can be readily estimated, you will be advised that the estimated fee may be a portion of the total. There is no charge for processing a request if applicable charges are less than \$10. *See* Amtrak FOIA Regulation 49 CFR 701.11 *Fees* www.amtrak.com/foia.

In order to protect requesters from large or unexpected fees, Amtrak will contact you for a commitment to pay fees when it is anticipated that fees will exceed \$100. If Amtrak determines or anticipates that fees will exceed \$250, you may be asked to provide an advance deposit of the entire fee before Amtrak continues to process your request.

You should be aware that if you agree to pay fees and no records are found or responsive records are withheld in their entirety, you will still be liable for payment of search and possibly review fees, depending upon the category to which your request has been assigned. If you agree to pay fees and fail to do so within thirty days of billing, you may be charged interest on your overdue balance. You should also be aware that Amtrak is not obligated under the FOIA to process any additional requests until payment is made in full.

Refer to Attachment B for Amtrak's fee schedule.

Multitrack Processing

In fairness to all requesters, Amtrak strives to process requests in order of date of receipt and according to the complexity of the request. To do this, Amtrak utilizes a multi-track processing system. The FOIA Office assigns incoming requests to one of three tracks: simple, complex, or expedited. Each request is then handled on a first-in, first-out basis in relation to other requests in the same track. Simple requests usually receive a response in about 20 days or less, whereas complex requests necessarily take longer. Requests are placed in a complex queue based upon the amount of time required to process the request and/or the number of records sought.

Expedited Processing

Amtrak will ordinarily process an initial request or appeal ahead of others waiting for a response only in limited circumstances, which are described below:

- (a) When there is a threat to a person's life or physical safety;
- (b) There is a need to inform the public about an actual or alleged Amtrak activity if made by a person primarily engaged in disseminating information.

A request for expedited processing must be explained in detail and accompanied by a statement that states the reasons for expediting the request are certified to be true and correct. Within ten calendar days, Amtrak will advise you whether your request for expedited processing will be granted or denied. If granted, your request for expedited processing shall result in your request or appeal being given priority over requests or appeals and processed as soon as practical. If your request for expedited processing is denied, however, you will be advised of your right to file an administrative appeal of that denial. *See*

Responses to Your Request

The time period for responding to requests does not begin until the request is actually received by the FOIA Office, and the request is deemed "perfected." A "perfected" request means that all questions regarding fee issues have been resolved, and the records that you are seeking have been adequately described.

The FOIA Office will ordinarily send you a letter acknowledging receipt of your request. The acknowledgement letter will provide you with the number assigned to your request for processing purposes as well as the name and phone number of the FOIA Officer responsible for processing your request. Please feel free to contact the FOIA Officer regarding the status of your request or if you have any questions.

Amtrak may offer assistance in identifying records and/or reformulating a request where the description is insufficient, the production of voluminous records is required, or a considerable number of work hours will be required that will interfere with the business of the Corporation. Amtrak will contact and provide you with an opportunity to narrow the scope of your request or supply additional information. If this situation occurs, you may submit a revised request.

Once a request has been received that adequately describes the records sought and all fee issues have been resolved, your request will be assigned a track (complex, expedited or simple). The FOIA stipulates that entities subject to the FOIA have twenty business days in which to make a determination regarding a request. Saturdays, Sundays, and other days that the federal government is closed for business are not counted as business days. Your request will be suspended during the time period spent in obtaining information clarifying your request and/or resolving fee issues, and the response time will be tolled.

Although Amtrak makes every effort to respond to FOIA requests as quickly as possible, in some cases, it cannot be done within the specified period because of the number of records sought in the request or the fact that Amtrak has a backlog of previously received requests. When this occurs, Amtrak may extend the response time for an additional ten business days when it is necessary to:

- (a) obtain responsive records from Amtrak field offices,
- (b) locate, compile, and review voluminous records in order to respond to a request;
- (c) confer with another entity or components of Amtrak that have a substantial interest in the information that is responsive to the request.
- (d) contact submitters of information to ascertain whether there is objection to disclosure (e.g., confidential business information).

If the required extension will exceed the additional ten-day period, you will be given an opportunity to modify your request or to arrange for an alternative time frame for processing your request.

Amtrak's FOIA Public Liaison

For further assistance and to discuss any aspect of your request you may also contact our FOIA Public Liaison at FoiaPublicLiaison@amtrak.com. Additionally, you may contact the Office of Government Information (OGIS), National Archives and Records Administration, Room 2510, 8601 Adelphi Road,

College Park, MD 20740-6001, e-mail at ogis@nara.gov, telephone at 202-741-5770; toll free at 1-877-684-6448; or fax 202-741-5769.

Initial Request Determinations

When your request has been processed and all fee issues have been resolved, we will send you a letter advising you of Amtrak's determination regarding the records sought in your request. The determination letter will advise you whether any information is being withheld pursuant to applicable exemptions of the FOIA. When information is withheld in its entirety, Amtrak will ordinarily specify the number of pages withheld or provide you with an estimate of the volume.

Records (or portions of records) will be released unless disclosure will harm an interest protected by one or more FOIA exemptions listed below:

- (b)(1) classified national defense and foreign relations information.
- (b)(2) internal agency rules and practices.
- (b)(3) information that is prohibited from disclosure by another federal law.
- (b)(4) trade secrets and other confidential business information.
- (b)(5) inter-agency or intra-agency communications that are protected by legal privileges.
- (b)(6) information involving matters of personal privacy.
- (b)(7) records or information compiled for law enforcement purposes to the extent that the production of the records:
 - (A) could reasonably be expected to interfere with enforcement proceedings;
 - (B) would deprive a person of a right to a fair trial or an impartial adjudication;
 - (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;
 - (D) could reasonably be expected to disclose the identity of a confidential source;
 - (E) would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions; or
 - (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) information relating to financial institutions.
- (b)(9) geological information on wells.

Appeals

You may file an administrative appeal if you are not satisfied with Amtrak's initial response -- that is, if you disagree with the information withheld, or if you believe that there are additional records that are responsive to your request that have not been provided. You may file an administrative appeal for other reasons such as a denial of your request for expedited processing or a fee waiver. You may also appeal a determination that a record does not exist, that a record is not readily reproducible in the format requested, that the requested information is not a record subject to FOIA, or any disputed fee matter.

All appeals must be in writing and should be sent to:

Executive Vice President, Chief Legal Officer, General Counsel and Corporate Secretary
National Railroad Passenger Corporation (Amtrak)
1 Massachusetts Avenue, N.W.
Washington, D.C. 20001

To facilitate the delivery of your appeal, we suggest that you label the envelope "FOIA Appeal" and

indicate in the first part of your letter that it is an appeal. All appeals must be received by Amtrak within ninety days (90) of the date of the letter advising you of the initial adverse determination. The 90-day period does not begin to run until a determination is made with respect to all portions of the request. Your appeal should include a statement of the reasons why the records withheld should be made available and why the denial was in error. You may also cite legal and other authorities that you consider appropriate.

The Executive Vice President, Chief Legal Officer, General Counsel and Corporate Secretary will review your appeal and make a determination within twenty business days. You will be advised of your right to seek judicial review if your appeal is denied.

Before filing a lawsuit, you ordinarily will be required to have filed an administrative appeal and received a response. If Amtrak fails to respond to either your initial request or your appeal within the time limits specified, however, you may file suit once the time limits have expired.

Requesters are also recommended to contact Amtrak's FOIA Liaisons FOIAPublicLiaison@amtrak.com for any adverse response to their requests.

Other Means of Obtaining Information

Under subsection (a)(2) of the FOIA, each agency, in accordance with published rules, shall make available for public inspection in an electronic format the records listed below:

Category	Description
Final Agency Opinions and Orders	Final opinions and orders rendered in the adjudication of cases. Note: Amtrak has no reading room records for this category since the Corporation does not adjudicate cases.
Policy Statements, Staff Manuals and Instructions	Statements of policy and directives to Amtrak employees that affect the public.
Frequently Requested FOIA Records	Records frequently requested from Amtrak under the FOIA.

A description of other information available on Amtrak’s FOIA website is provided below:

Other Information Available	Description
Annual FOIA Reports	A report prepared each fiscal year and submitted to the Attorney General, U.S. Department of Justice (DOJ) for approval for posting, which provides statistical data concerning the processing of requests for information submitted to Amtrak under the FOIA.
Chief FOIA Officer Reports	In accordance with the Attorney General’s 2009 FOIA Guidelines, Amtrak submits its Chief FOIA Officer Report to DOJ every year. These reports contain details of Amtrak’s FOIA administration, as well as the steps taken to implement the Attorney General’s FOIA Guidelines during each reporting year.
FOIA Handbook	A handbook that provides information regarding the FOIA and how to make a FOIA request.
Amtrak Annual Reports/ Consolidated Financial Statements	Amtrak’s Annual Reports and Consolidated Financial Statements contain the Corporation’s audited financial statements.
Major Information Systems	A list of Amtrak’s major information systems, which includes both electronic and paper-based systems.

FEE CATEGORIES WITH ASSOCIATED CHARGES – ATTACHMENT A

	Fee Category	Description	Fee
I	Commercial Use	Refers to a request from or on behalf of a person who seeks information for a use or purpose that furthers his commercial trade, or profit interests, including furthering those interests through litigation.	Requesters are charged \$38 per hour for search and review time and 25 cents per page for reproduction of records per request.
II	Representatives of the News Media	Any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.	First 100 pages free of charge per request.
III	Educational and Non-Commercial Scientific Institutions	<p>Educational: A preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, or an institution of vocational education that operates a program of scholarly research. Requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are not sought for commercial use but to further scholarly research.</p> <p>Non-commercial Scientific Institution: An institution that is not operated on a commercial basis.</p>	First 100 pages free of charge per request.
IV	Other	Requesters who do not fall under categories I, II & III.	The first two hours and the first 100 pages of duplication free of charge per request.

AMTRAK FEE SCHEDULE – ATTACHMENT B

Activity	Charge
Search Time	\$38 per hour
Review Time	\$38 per hour
Submitter Notification	\$38 per hour
Reproduction of Documents	25 cents per page for documents up to 8 ½ x 14 s on a standard office copier.
Other Forms of Duplication (e.g., microforms, audiotapes, diskettes, compact discs, oversized documents such as maps)	The direct costs of reproducing the records, which shall include the cost of the media and operator time. If it is necessary for Amtrak to outsource the reproduction, the costs incurred by Amtrak will be billed to the requester.
Special Services (e.g., certifying that records are true copies or sending records other than by ordinary mail).	The direct costs of providing such services.
Programming	The direct costs of programming.
Electronic Searches	The direct costs of conducting electronic searches.
Items Published and Available through Amtrak	As priced by Amtrak.