Announcement to go to all employees

Please direct all replies to Carol Ann Reed (CAR2).

Subject: Freedom of Information Act Requests

On October 12, 2001, Attorney General John Ashcroft issued a new policy memorandum on the Freedom of Information Act (FOIA). Attorney General Ashcroft's memorandum establishes a new "sound legal basis" standard for the defense of FOIA law suits by the Department of Justice. This new policy differs from Attorney General Janet Reno's October 1993 policy, which required a finding that the information was both legally withholdable and the agency reasonably foresaw that discretionary disclosure of the information would be harmful. Attorney General Ashcroft's new policy also allows the agency to continue making discretionary disclosures of exempt information under the Act, subject to statutory prohibitions and careful agency consideration of all institutional, commercial, and personal privacy interests involved. Under the new standard, agencies must reach the judgment that their use of a FOIA exemption is on sound footing, both factually and legally, whenever they withhold requested information. Therefore, effectively immediately, "foreseeable harm statements" will no longer be required when office FOIA coordinators submit records to be withheld to the FOIA/Privacy Act Team.

The Web address for the Attorney General's memorandum is:
http://www.usdoj.gov/oip/foiapost/2001foiapost19.htm

The agency has received a number of FOIA requests for security information. These FOIA requests are being processed in the usual manner: first a fee estimate is provided, then records are compiled, reviewed, and forwarded to the FOIA/Privacy Act Team by the office FOIA coordinator. While reviewing the records, you should apply the FOIA exemptions the same way they were applied in the past. If you locate records that you believe contain information that warrants closer scrutiny, please list these records separately and provide a statement explaining the sensitivity of the information. If it is not apparent from the record itself, please note who originated the record (NRC or an outside entity) and whether it has previously been made publicly available. This information will be used in determining whether an exemption can be applied to the records.

If information is withholdable because it is unclassified safeguards information, please note the requirements of 10 CFR 73.21. You should indicate in the margin of the record the section or sections of 10 CFR 73.21 under which the bracketed information falls.