

Sealing, Donna

From: Karen Olive *EDO*
Sent: Tuesday, May 19, 2009 3:30 PM
To: Russell Nichols; Donna Sealing
Cc: Georgette Price
Subject: RE: New FOIA Procedures - Yellow Announcement (ML091200457)

FYI, Darren signed the subject document today (5/19). Thanks!

Karen, x2276

From: Karen Olive *EDO*
Sent: Tuesday, May 19, 2009 9:23 AM
To: Russell Nichols
Cc: Georgette Price; Donna Sealing
Subject: RE: New FOIA Procedures - Yellow Announcement (ML091200457)

Thanks Russ. I'm taking it upstairs for signature in a few minutes and will let you know when its signed.

Karen, x2276

From: Russell Nichols *OIS*
Sent: Tuesday, May 19, 2009 7:27 AM
To: Karen Olive
Cc: Georgette Price; Donna Sealing
Subject: RE: New FOIA Procedures - Yellow Announcement (ML091200457)

Hi Karen,

See below.

Russ

From: Karen Olive *EDO*
Sent: Monday, May 18, 2009 3:48 PM
To: Donna Sealing; Russell Nichols
Cc: Georgette Price
Subject: New FOIA Procedures - Yellow Announcement (ML091200457)

Hi:

I rec'd the subject package today and just have a couple of questions: (pls forgive me if you already discussed this w/Darren - I think I missed the last couple of IRSD periodics)

1. Are we changing procedures or policy? The subject refers to procedures but the enclosure refers to implementing policy. Both. Based on the President's and Attorney

AKS

General's new guidelines which are new federal policy, i.e. to be more open and transparent, we are implementing the foreseeable harm standard which is a procedure.

2. Is there anything about the implementation that is discretionary? The use of the term discretionary in this case refers to agencies making the decision whether to release information that is technically withholdable under an exemption. The new policy encourages agencies to make discretionary disclosures, which means to be more open even if there is an exemption under which the information could be withheld. Hence, the foreseeable harm standard, i.e., unless there is a foreseeable harm, agencies should discretionarily release the information. There are some exceptions to that, for example, agencies cannot make a discretionary release of classified information or information that is required to be withheld under another law.

However, implementation of the policy is not discretionary, i.e., we must comply with the foreseeable harm standard and the guidelines.

3. Will the changes impact any Management Directive(s), website, training? Yes, we'll have to include the foreseeable harm policy in the next update MD 3.1. We're updating our on-line FOIA training and our classroom presentation to include the new guidelines/procedures. We've already posted the President's and AG's memos on our external FOIA web site. We'll post the YA on our internal site once it is approved.

Thanks!

Karen, x2276