

Budget Justification Statements
Information Services Branch

Outside of Scope

Information in this record was deleted in
accordance with the Freedom of Information Act.
Exemptions B1, 6, outside scope
FOIA/PA 2011-0001

B-1

Outside of Scope

PA Number IM-02-10: "FOIA/PA Programs - Contractor Support"

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The FY 2012 budget should include funding for the contract FOIA Specialist and the contract Secretary. Without these two contractors, the FOIA program will be unable to meet its service level requirements and the number of backlogged requests will increase. Since 2006, the NRC has made commendable progress in improving the timeliness of its FOIA responses and reducing its backlog of FOIA requests, in response to emphasis on FOIA by the Bush administration. The Obama administration has made openness and transparency one of the foundations of its policy and has implemented a new Chief FOIA Officer's Report for agencies to report their progress in implementing President Obama's policies. Agencies Chief FOIA Officers are now required to annually review "all aspects of their agencies' FOIA administration" and to report each year to the Department of Justice on the steps taken "to improve FOIA operations and facilitate information disclosure." Failure to fully fund these two contractor

positions will result in the NRC FOIA program reversing course and giving up the gains it has made since 2006, and potentially drawing the ire and spotlight of the Obama administration and Congress.

One of these contracts provides a senior FOIA specialist. Since the inception of the senior FOIA specialist contract in October 2006, the contractors have averaged 77 FOIA requests completed per year. Prior to having a FOIA specialist contractor, the NRC's backlog of FOIA requests steadily increased each year because the FTE FOIA staff was insufficient in size to process all of the requests in a timely manner. Additionally, the timeliness of responses since the acquisition of the FOIA contractor has increased each year. The percentage of requests closed in 20 days or less has steadily improved in the last five years: FY 2005 - 55%, FY 2006 - 57%, FY 2007 - 62%, FY 2008 - 74%, FY 2009 - 82%.

The use of a contractor to process FOIA requests is one of the primary, if not *the* primary reasons why NRC has improved in timeliness and reduced its backlog. It is important to note that this contract's final option year ends in September 2011. Therefore, the contract will need re-compete in FY 2012. It is expected that the cost of this contract will increase over what it is now even if the same contractor were to be awarded it. Therefore, the B+ scenario in the C3 includes an increase for this contract.

The other contractor, although obtained under the Phacil secretarial contract, does not perform normal secretarial duties. This contractor position was specifically created due to the need for a person to provide administrative support to the FOIA staff. The duties of this position include monitoring the FOIA.Resource@NRC.gov mailbox and facsimile for incoming FOIA requests; preparing acknowledgement letters to FOIA/PA requesters, creating case file folders, scanning documents into the FOIAXpress system so that they are available to the FOIA specialist for electronic redaction, preparing outgoing responses including copying documents for release to the requesters, preparing CD's for delivery to requesters and ensuring they get mailed, picking up and delivering FOIA case packages to offices particularly the OGC, OI, OE, and FSME - in order to help speed up the movement of cases between offices rather than sending them through the much slower distribution system, copying documents for release to the requesters, preparing CD's for delivery to requesters, and other administrative duties. The loss of this position, without an FTE to replace it, would mean that the FOIA specialists would have to do all of these activities themselves. This would reduce the time they have available for processing requests. The 2080 hours of labor provided by this contractor would have to be absorbed by and subtracted from the productivity of the FOIA specialists. This equates to a loss of FOIA processing time of approximately 400 hours per FOIA specialist per year, or if all the duties were given to one person, the loss of one full FTE from processing FOIA requests. Either way, the end result of this would be slower processing times and larger backlogs at a time when the Obama administration is emphasizing giving more information to the public within the time requirements of the FOIA.

In addition to the problems identified above regarding the loss of two contract positions, the FOIA/Privacy Section is facing a serious, impending succession planning problem as can be noted by the retirement eligibility dates of its staff as noted below. Based on the current staffing levels, the currently vacant positions, and the possible decrease in staff due to retirement eligibility over the next three years the FOIA/Privacy Section could be reduced from nine (not including the vacant positions) to three ^{(b)(6)} by FY 2012. Without the current vacant positions being filled, which at this time seems unlikely, the elimination of the contractor support would be severely detrimental to the FOIA/Privacy Section. The reduced staff of three would only be able to minimally process FOIA requests. At the end of FY 2009

there were 23 FOIA requests pending of which 5 were backlogged. (b)(5) 5
(b)(5) and the current significant increase in requests, the backlog of FOIA requests would drastically increase to approximately 120 to 140 cases per year which would then be compounded by that number in subsequent years. It is important to understand that the potential retirements and the currently vacant positions effect not only FOIA operations – it must be realized that there may be no staff to support the Privacy Act compliance activities, Public Meeting Notice postings, and the transition from SUNSI to CUI.

Current FOIA/Privacy Section Federal Staff:

Donna Sealing, Section Chief – (b)(6)
Natalie Brown, FOIA/PA Specialist – (b)(6) Ex 6
Barbara Culleen, FOIA/PA Specialist – (b)(6)
Deborah Dennis, FOIA/PA Specialist – (b)(6)
Mary Jean Raphael, FOIA/PA Specialist – (b)(6)
Sandra Northern, Privacy Act (PA) Program Analyst – (b)(6)
Becky Wood, Program Analyst – (b)(6)

Current Vacant Positions:

- Senior Program Analyst (Policy), GG-14 (vice (b)(6)) - this person serves as the backup to the Section Chief for the review of FOIA cases and as the primary action officer for SUNSI/CUI transition actions
- Management Analyst, GG-13 (vice (b)(6)) - this person serves as the backup to the PA compliance program analyst as well as supporting SUNSI/CUI transition activities.
- FOIA/PA Specialist, GG-7 opt 12 (vice (b)(6)) - this person serves as a "junior" FOIA/PA Specialist in a succession planning role.