

A-13

Kusnick, Joshua

From: Csontos, Aladar
Sent: Wednesday, September 26, 2012 12:50 PM
To: Hardies, Robert
Subject: RE: FOIA Question

Thanks. I think RES/IP and IP will cover the issue.

From: Hardies, Robert
Sent: Wednesday, September 26, 2012 11:23 AM
To: Csontos, Aladar
Subject: FW: FOIA Question

This thread contains the discussion from OGC. There was more to the story, however. I understand that OIP disagrees with the interpretation described in the email below. I don't think this has been resolved. I think it won't be resolved until there is an actual FOIA. The email chain was initiated at the request of Commissioner Magwood.

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Cell (b)(6)

From: Hiland, Patrick
Sent: Friday, August 24, 2012 1:28 PM
To: Merzke, Daniel
Cc: Hardies, Robert
Subject: FW: FOIA Question

Dan, recall the handouts we passed out during the Doel-3 Magwood briefing. Please inform those present that the information contained in the handouts could be FOIA'd.

From: Suttenger, Jeremy
Sent: Friday, August 24, 2012 1:24 PM
To: Hiland, Patrick
Cc: Hirsch, Patricia
Subject: RE: FOIA Question

Patrick,

I've looked into this. Unfortunately, there is not a blanket "foreign government" exception to the FOIA. So yes, this information is subject to FOIA – it does not matter that it was "government to government." But this does not necessarily mean that this information is releasable under FOIA. If, for example, the information is proprietary for one of our facilities, then we can try to protect it under Exemption 4. There are other specific exemptions (I am thinking of the privacy ones in particular) that also may apply, depending on the information.

C/S89

Ultimately, whether we could protect these handouts would fairly fact-specific. If we get a "live" request, then we can take a closer look and assess our options then. Also, perhaps in the future, the best approach or your staff would be to just return the handouts at the end of the meeting, and then take personal notes to brief the folks back here at HQ (these notes can be protected under Exemption 5).

- Jeremy

From: Hilland, Patrick
Sent: Friday, August 24, 2012 1:16 PM
To: Suttentberg, Jeremy
Subject: RE: FOIA Question

p.s. Commissioner Magwood asked the question since we provided him with some of the handouts.

From: Suttentberg, Jeremy
Sent: Thursday, August 23, 2012 11:51 AM
To: Hilland, Patrick
Subject: RE: FOIA Question

Thank you. Let me research this.

From: Hilland, Patrick
Sent: Thursday, August 23, 2012 11:49 AM
To: Suttentberg, Jeremy
Subject: RE: FOIA Question

Jeremy, last week one of my staff visited Belgium to discuss issues in an all-regulator meeting with 7 other countries. During the course of his visit, information was provided via handouts that the Belgians indicated their desire to only release/discuss particulars within the NRC, i.e. do not make public. We used some of this information to brief Commissioner TAs and the questions arose; is this information subject to FOIA? Since it is "government to government" I was not sure of the answer. The information is related to an issue at a Belgian nuclear plant, and we attended the meeting at the invitation of the Belgian regulator.

From: Suttentberg, Jeremy
Sent: Thursday, August 23, 2012 11:37 AM
To: Hilland, Patrick
Subject: FOIA Question

Hello Patrick,

I hear you have a FOIA question. Please let me know what it is via e-mail.

Jeremy