



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC 2018 000049

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Julian Tarver

DATE:

04/12/2018

DESCRIPTION OF REQUESTED RECORDS:

Internal communication related to FOIA 2017-0415

PART I. -- INFORMATION RELEASED

- The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov>; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (See Part I.D -- Comments) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Part I.D -- Comments.

PART I.A -- FEES

| |
|--------|
| AMOUNT |
| \$0.00 |

- You will be billed by NRC for the amount indicated.
- You will receive a refund for the amount indicated.
- Fees waived.
- Since the minimum fee threshold was not met, you will not be charged fees.
- Due to our delayed response, you will not be charged fees.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). See 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-2 F43, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to FOIA.resource@nrc.gov. You may fax an appeal to (301) 415-5130. Or you may submit an appeal through FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>. Please be sure to include on your submission that it is a "FOIA Appeal."

PART I.C -- REFERENCES AND POINTS OF CONTACT

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at ogis@nara.gov; send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST**

NRC 2018 000049

1

RESPONSE
TYPE

INTERIM

FINAL

PART I.D -- COMMENTS

Please note:

The requested responsive records are enclosed.

Signature - Freedom of Information Act Officer or Designee

Stephanie A. Blaney

Digitally signed by Stephanie A. Blaney

Date: 2018.04.12 14:11:37 -04'00'



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

DATE

4/12/18

PART II.A -- APPLICABLE EXEMPTIONS

GROUP
 X

Records subject to the request that are contained in the specified group are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C., Section 4702(b), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
 - Disclosure will harm an identifiable private or governmental interest.
- Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
 - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege. (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrong doing or a violation of NRC requirements from investigators).
 - (C) Disclosure could constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

| DENYING OFFICIAL | TITLE/OFFICE | RECORDS DENIED | APPELLATE OFFICIAL | | |
|------------------|-----------------|----------------|-------------------------------------|--------------------------|--------------------------|
| | | | EDO | SECY | IG |
| Stephanie Blaney | FOIA/PA Officer | X | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

Chidichimo, Gabriele

From: (b)(6)
Sent: Thursday, March 16, 2017 2:14 PM
To: Ennis, Tina
Subject: [External_Sender] Re: RE: Re: 2017-0415 FOIA Request

Yes, thanks.

On 03/16/17, Ennis, Tina<TINA.ENNIS@nrc.gov> wrote:

You are welcome. So, you agree to withdraw your new request, 2017-0415, correct?

Tina Ennis

FOIA Analyst (Contractor)

OCIO/GEMS/ISB

U.S. Nuclear Regulatory Commission

Location: T-5F18 | Mailstop: T-5F09

 301-415-5616  Tina.Ennis@nrc.gov

From: (b)(6)
Sent: Thursday, March 16, 2017 2:01 PM
To: Ennis, Tina <TINA.ENNIS@nrc.gov>
Subject: [External_Sender] Re: 2017-0415 FOIA Request

Yes, that's great. Thank you very much.

Michael Ravnitzky

On 03/16/17, Ennis, Tina<TINA.ENNIS@nrc.gov> wrote:

Good afternoon Mr. Ravnitzky:

Your attached FOIA request, 2017-0415, which seeks the disposition of records from the NRC Foreign Intelligence Information Program, which was terminated in 2003, and its history and/or overview and/or description, is also included as part of the response to another request that you submitted, 2017-0409 (still being processed), which seeks copies of Yellow Announcements (YA). Please find YA attached, and let me know if this satisfies your new request, 2017-0415.

Thank you.

Tina Ennis

FOIA Analyst (Contractor)

OCIO/GEMS/ISB

U.S. Nuclear Regulatory Commission

Location: T-5F18 | Mailstop: T-5F09

☒ 301-415-5616 ☒ Tina.Ennis@nrc.gov



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0415

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Michael Ravnitzky

DATE:

03/16/2017

DESCRIPTION OF REQUESTED RECORDS:

Disposition of records from the NRC Foreign Intelligence Information Program, which was terminated in 2003, and its history and/or overview and/or description

PART I. - INFORMATION RELEASED

You have the right to seek assistance from the NRC's FOIA Public Liaison. Contact information for the NRC's FOIA Public Liaison is available at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>

- Agency records subject to the request are already available on the Public NRC Website, in Public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A - FEES

NO FEES

AMOUNT*

*See Comments for details

- You will be billed by NRC for the amount listed.
- You will receive a refund for the amount listed.
- Fees waived.

- Minimum fee threshold not met.
- Due to our delayed response, you will not be charged fees.

PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions") 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response by sending a letter or e-mail to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal." You have the right to seek dispute resolution services from the NRC's Public Liaison, or the Office of Government Information Services (OGIS). Contact information for OGIS is available at <https://ogis.archives.gov/about-ogis/contact-information.htm>

PART I.C COMMENTS (Use attached Comments continuation page if required)

In an email dated March 16, 2017, you agreed to withdraw your request since it is duplicative of another request (FOIA-2017-0409) you previously filed.

Signature- Freedom of Information Act Officer or Designee

Michael Ravnitzky



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 16, 2017

FOIA/PA-2017-00415

Michael Ravnitzky

(b)(6)

Dear Mr. Ravnitzky:

We received your Freedom of Information Act (FOIA) request on March 16, 2017.

Your request, which seeks the disposition of records from the NRC Foreign Intelligence Information Program, and its history and/or overview and/or description, has been assigned the following reference number that you should use in any future communications with us about your request: FOIA/PA-2017-00415.

To ensure the most equitable treatment possible of all requesters, the NRC processes requests on a first-in, first-out basis, using a multiple track system based upon the estimated time it will take to process a request. Based on your description of the records you are seeking, we estimate completion of your request will be on or before April 13, 2017.

Please know that this date roughly estimates how long it will take us to close requests ahead of yours in the respective track and complete work on your request. The actual date of completion might be before or after this estimate, based on the complexity of all of the requests in the simple track. We will advise you of any change in the estimated time to complete your request. In an effort to process your request promptly, you may wish to narrow the scope of your request to limit the volume of potentially responsive records.

For purposes of assessing fees in accordance with our regulations (10 CFR 9.33), we have placed your request in the following category: Non-Excepted. If applicable, you will be charged appropriate fees for: Search and Duplication of Records.

A sheet has been enclosed that explains in detail the fee charges that may be applicable. **Please do not submit any payment unless we notify you to do so.**

The following person is the Government Information Specialist who has been assigned responsibility for your request: Tina Ennis at 301-415-5616 or Tina.Ennis@nrc.gov.

If you have questions on any matters concerning your FOIA request, please feel free to contact the assigned Government Information Specialist or me at (301) 415-7169.

Sincerely,

Stephanie A. Blaney /s/

Stephanie A. Blaney
FOIA Officer
Office of the Chief Information Officer

Enclosures:
Explanation of Fees

EXPLANATION OF FEES

Requester Fee Categories

Commercial: Fees are charged for document search, duplication, and review, when records are requested for commercial purposes. Fees (above the minimum fee charge) cannot be waived for this category of requester.

Educational, Non-Commercial Scientific, News Media and Privacy Act: Fees may be charged only for document duplication when records are not sought for commercial use and the request is made by an Educational or Non-Commercial Scientific Institution, whose purpose is scholarly or scientific research; or a Representative of the News Media; or a person requesting his/her own records that are in a Privacy Act system of records. No fee is charged for the first one hundred pages of duplication for this category of requester.

Non-Exempted: For any request not described above (Non-Exempted), fees may be charged for document search and duplication. No fee is charged for the first two hours of search time or for the first one hundred pages of duplication for this category of requester.

Fee Schedules

Fee schedules provide only for the recovery of the direct costs of search, duplication, or review. Review costs include only the costs for initial examination of a document to determine whether it must be disclosed and to determine whether to withhold portions that are exempt from disclosure. The fee schedule is as follows:

| <u>Search & Review Conducted By</u> | <u>Rate</u> | |
|---|-----------------|-----------------|
| ! SES/COMMISSIONER | \$90.53/hour | (ES-maximum) |
| ! PROFESSIONAL | \$56.36/hour | (GG-13, Step 6) |
| ! CLERICAL | \$25.16/hour | (GG-7, Step 7) |
| <u>Duplication Charges</u> | \$.20 per page | |

Fees for non-standard search or duplication will be charged at the actual cost (e.g. providing copying of audio tapes or conducting computer searches).

Minimum Fee: No fee will be charged unless the fee is equal to or greater than \$25.00.

When to Pay Fees

If we estimate that fees will not exceed \$25.00 or you have stated in your request a higher amount that you are willing to pay, we assume your willingness to pay up to \$25 or the amount stipulated and you will be billed after we have completed your request.

If we estimate that fees will exceed \$25.00 or any amount that has been stated by you in your request, we will not proceed with your request until we have notified you and obtained your agreement to pay the estimated fees.

If we estimate fees will exceed \$250, you will be required to pay the estimated fees in advance before we proceed further with your request. If, while processing your request, we find that the actual fees exceed the estimated fee, we will obtain your consent to pay the additional fees before continuing to process your request. If the actual fees to process your request are less than any advance payment you have made, you will be refunded the overpayment amount.

Fee Waivers

A waiver or reduction of fees may be granted for furnishing documents if a requester, by fully addressing the eight factors in 10 CFR 9.41, clearly demonstrates that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

CASE NO: 2017-0415
DATE REC'D: 03/16/17
SPECIALIST:
RELATED CASE:

February 28, 2017

U.S. Nuclear Regulatory Commission
FOIA Officer
Mailstop: T-5 F08
Washington, DC 20555-0001
Fax: 301-415-5130
Email: FOIA.resource@nrc.gov

This is a request for records under the provisions of the Freedom of Information Act.

I request a copy of documents discussing

- 1) the disposition of records from the NRC Foreign Intelligence Information Program, which was terminated in 2003.
- 2) a history and/or overview and/or description of the NRC Foreign Intelligence Information Program

This is a noncommercial individual request. I agree to pay up to 25 dollars for applicable fees if necessary.

Sincerely,



Michael Ravnitzky

(b)(6)