

NRC FORM 464 Part I (12-2015)	U.S. NUCLEAR REGULATORY COMMISSION RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST	FOIA <div style="border: 1px solid black; padding: 2px; text-align: center;">2017-0188</div>	RESPONSE NUMBER <div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>
REQUESTER: <div style="border: 1px solid black; padding: 2px;">Marilyn S. Teitelbaum</div>		DATE: <div style="border: 1px solid black; padding: 2px; text-align: center;">JAN 18 2017</div>	
DESCRIPTION OF REQUESTED RECORDS: <div style="border: 1px solid black; padding: 5px;">Records relating to potential proposed rule making re third party arbitrators regarding denial of access and fitness for duty decisions and SECY 15-1049</div>			
PART I. -- INFORMATION RELEASED			
<input type="checkbox"/> Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.			
<input checked="" type="checkbox"/> Agency records subject to the request are enclosed.			
<input type="checkbox"/> 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.			
<input type="checkbox"/> We are continuing to process your request.			
<input checked="" type="checkbox"/> See Comments.			
PART I.A -- FEES			
AMOUNT* \$ <div style="border: 1px solid black; width: 80px; height: 30px; display: inline-block;"></div>	<input type="checkbox"/> You will be billed by NRC for the amount listed.		
	<input type="checkbox"/> None. Minimum fee threshold not met.		
	<input type="checkbox"/> You will receive a refund for the amount listed.		
	<input type="checkbox"/> Fees waived.		
<small>*See Comments for details</small>			
PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE			
<input type="checkbox"/> We did not locate any agency records responsive to your request. <i>Note:</i> 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.			
<input checked="" type="checkbox"/> We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.			
<input type="checkbox"/> 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.			
<input checked="" type="checkbox"/> You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email 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."			
PART I.C COMMENTS (Use attached Comments continuation page if required)			
In conformance with the FOIA Improvement Act of 2016, the NRC is informing you that: (1) you have the right to seek assistance from the NRC's FOIA Public Liaison; (2) you have the right to seek dispute resolution services from the NRC's FOIA Public Liaison or the Office of Government Information Services; and (3) notwithstanding the language in Parts I.B and II.B of this form, you may appeal this final determination within 90 calendar days of the date of this response by sending a letter or email 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."			
SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER <div style="border: 1px solid black; padding: 5px;"> <i>Nina Argent, Acting</i> </div>			

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

2017-0188

DATE:

JAN 18 2017

PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- ☐ 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 the 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. 4702(b), which prohibits the disclosure of contractor proposals, 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 confidential commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ 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 is considered to be another type of confidential business (proprietary) information.
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☒ Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
- ☒ Deliberative process privilege.
- ☐ Attorney work product privilege.
- ☐ Attorney-client privilege.
- ☐ Exemption 6: The withheld information from a personnel, medical, or similar file, 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 open enforcement proceeding.
- ☐ (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names 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

PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Nina Argent	Acting FOIA Officer/OCIO	Thoughts/opinions of staff member	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

Appeals must be made in writing within 30 calendar days of the date of this response by sending a letter or email 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."

Dear FOIA Requester:

The FOIA Improvement Act of 2016, which was enacted on June 30, 2016, made several changes to the Freedom of Information Act (FOIA). Federal agencies must revise their FOIA regulations to reflect those changes by December 27, 2016. In addition to revising our regulations, we intend to update the Form 464, which we use to respond to FOIA requests.

In the interim, please see the comment box in Part I.C of the attached Form 464. The comment box includes information related to the recent changes to FOIA that is applicable to your FOIA request, including an updated time period for filing an administrative appeal with the NRC.

Sincerely yours,

Stephanie Blaney /S/

Stephanie Blaney
FOIA Officer