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*"Rummaging in the government's attic"*

Description of document: **Records in the Office of the Chief FOIA Officer of the Federal Election Commission (FEC) during CY 2007 that discuss matters relating to FOIA, and/or its planning, budgeting, or implementation**

Appeal date: 20-July-2008

Released date: 30-November-2010

Posted date: 20-December-2010

Source of document: Federal Election Commission  
Attn: FOIA Requester Service Center  
Room 408  
999 E Street, NW  
Washington, DC 20463  
Fax: (202) 219-1043  
Email: [FOIA@fec.gov](mailto:FOIA@fec.gov)

Note: 98 pages released. Pages 36-98 denied in their entirety under FOIA Exemption (b)(5)

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 30, 2010

**Subject: FEC Freedom of Information Act (FOIA) Appeal, No. 2008-01**

This responds to the Freedom of Information Act (FOIA) appeal that you filed on July 20, 2008, regarding the denial of your request dated January 8, 2008. In your original request you asked for: "a copy of records such as memos, opinions, letters, correspondence, presentations or emails in the Office of the Chief FOIA Officer of the FEC during the time period of calendar year 2007 that discuss matters relating to FOIA, and/or its planning, budgeting, or implementation at the agency." You further stated: "Naturally, [the FEC] may omit any documents such as the FOIA Implementation Plan that are posted on the FEC website or on the Justice Department website." Later, during a conversation with staff, you clarified that you sought, specifically, "high-level" documents about "planning" and "policy" that were submitted to the Chief FOIA Officer for review.

Pursuant to the appeal, the Service Center searched for additional documents and re-reviewed documents pertaining to this request. On this additional search, a few responsive documents were found. After reviewing the original documents again and also reviewing the newly discovered documents, the Commission decided on November 16, 2010, to grant your appeal with respect to one document, which is attached; to make a discretionary release of additional documents that qualify for protection under FOIA Exemption 5 as predecisional, 5 U.S.C. 552(b)(5); and to deny your appeal as to other documents. In addition, it determined that some documents originally withheld as predecisional were in fact not responsive to your request.

Under the deliberative process privilege of Exemption 5, the Government may withhold from disclosure any "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." To qualify for the privilege the document must be both "predecisional" and "deliberative." *Mapother v. Department of Justice*, 3 F.3d 1533, 1527 (D.C. Cir. 1993). "Predecisional" refers to communications that are "antecedent to the adoption of an agency policy." *Jordan v. Department of Justice*, 591 F.2d 753, 774 (D.C. Cir. 1978). A communication is "deliberative" when it plays a "direct part of the deliberative process in

that it makes recommendations or expresses opinions on legal or policy matters." *Vaughn v. Rosen*, 523 F.2d 1136, 1143-44 (D.C. Cir. 1975).

The documents that the Commission has decided to withhold meet the criteria for Exemption 5 protection outlined above. Furthermore, in making its determination to withhold some documents and to release others on a discretionary release basis, the Commission followed the guidance outlined in President Obama's January 21, 2009 memorandum to all agency heads which emphasized that the FOIA should be administered with a clear presumption of "openness." Specifically, the Commission applied the "foreseeable harm" FOIA standard set forth by the Department of Justice in Attorney General Holder's March 19 memorandum, which was issued in response to President Obama's call for "accountability and transparency" in FOIA processing throughout the Federal Government. In sum, we applied this standard to each document reviewed pursuant to this appeal. With respect to the documents being released on a discretionary basis, we have redacted information related to the FEC's internal agency processes and procedures and that is trivial in nature, and therefore is exempt under FOIA Exemption 2. 5 U.S.C. § 552(b)(2).

You are advised that you may bring civil action in U.S. District Court with respect to any adverse FOIA determination. If you have any questions, please contact the FOIA Requester Service Center at [FOIA@fec.gov](mailto:FOIA@fec.gov), or (202) 694-1650.


Sincerely,



Sally R. Bacon, Esq.  
FOIA Requester Service Center

Enclosures

Nicole J St Louis/FEC/US  
03/28/2007 03:47 PM

To Lawrence Calvert/FEC/US@FEC  
cc  
bcc  
Subject Re: 13392 

Not much. I'll still have the attorney's handle FOIA processing and review and sign the documents. In fact, they all (attorney's and paralegals) can be the FOIA processing center.

Which brings up the main issue with FOIA, our team needs written procedures on how we process FOIA's which is on my list to do. You also asked for some written guidance, which I will do. What I provide to you will help in formulating the ultimate procedures.

Lawrence Calvert/FEC/US

Lawrence Calvert/FEC/US  
03/28/2007 03:28 PM

To Nicole J St Louis/FEC/US@FEC  
cc  
Subject 13392

I read this memo, and guess what – *you're* the FOIA Public Liaison.

So, how, if at all, will that change how you guys are handling things?

John Vergelli/FEC/US  
09/10/2007 02:34 PM

To Lawrence Calvert/FEC/US@FEC  
cc Nicole J St Louis/FEC/US@FEC  
bcc  
Subject Proposed plan for completing "FOIA staff awareness training"

"Improvement 3.A." of the FEC's EO 13392 Implementation Plan calls for "staff awareness training" to be conducted in 2006-7. We conducted a "pilot program" by providing the training to one of the Enforcement teams in Dec. 2006. At about that time, the now-GC and I agreed that we could satisfy the requirements of the Implementation Plan by providing the training to certain important units within the agency, rather than attempting to train all or almost personnel. That still seems like a good idea.

To get this project re-started, the first step is identifying the units to whom we will give the training. Based on our experience so far in terms of the most common FOIA requests we receive, I recommend that we should train the following units:

- ☐ The (remaining) Enforcement teams
- ☐ CELA
- ☐ RAD
- ☐ Congressional Affairs
- ☐ Contracting Officer
- ☐ HR/LR

As to the substance of the training, I've put a copy of the outline I used for the "pilot program" training session from 12/06. (DOCS # 28096.) It took about 30 mins (including q & a) to conduct the session, and it seemed to me and to Mark Shonkwiler, the leader of the Enforcement team, as about right in terms of depth and time. The outline needs a bit of updating (i.e., to reflect personnel changes), but, all in all, I think it works.

Larry, let me know if you want to add or subtract any units to the line-up, and whether you have any changes to the outline (NL has already given her input). I'll then get started on scheduling.

John Vergelli  
FEC/OGC/GLA/Admin Law

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Nicole J St Louis/FEC/US  
10/10/2007 12:35 PM

To (b) (2)  
cc  
bcc  
Subject Fw: FOIA staff trng (3350): phone call w/ Tiffany; action plan

History:  This message has been replied to.

See below in partial response to your email regarding FOIA training. We've decided to do a FOIA Day and a separate Privacy Day. FOIA must be completed by the end of this year so we are in a time crunch with respect to FOIA. It will be much easier to get only the FOIA training cleared and completed in time than to try to include Privacy.

----- Forwarded by Nicole J St Louis/FEC/US on 10/10/2007 12:29 PM -----

Nicole J St Louis/FEC/US

To John Vergelli/FEC/US  
cc  
Subject Re: FOIA staff trng (3350): phone call w/ Tiffany; action plan

10/10/2007 09:56 AM

[Link](#)

Sounds good. What was her response regarding SkillPort and FOIA or other online training courses.

John Vergelli/FEC/US

To Nicole J St Louis/FEC/US@FEC  
cc  
Subject FOIA staff trng (3350): phone call w/ Tiffany; action plan

10/10/2007 09:47 AM

I just spoke with Tiffany. With her input, here is a recommended plan:

1. On 11/1, two things will happen:

a. A modified version of Allison's FOIA training outline will be posted on the FEC intranet blog.

b. The Chief FOIA Officer will send an e-mail to all FEC staff announcing that the training materials are on the blog. This e-mail will also specify the units for which the training is mandatory, and explain that staffers within each of these units must, by 11/30, certify to their supervisors that they have read the materials. We will provide signature pages to the relevant supervisors for this purpose. The e-mail will also explain that the training is optional for personnel not assigned to one of the mandatory units. Finally, the Chief FOIA Officer's e-mail will announce that the FOIA Service Center will sponsor the FEC blog in **December**. This means that we will post a short quiz based on the training materials. The staffer earning the high score on the quiz will win 59 minutes of comp time.

2. On Monday, 12/3, I will follow-up with the supervisors of the mandatory units to collect the signature pages.

I will deliver draft versions of the training materials, the signature page, and the Chief FOIA Officer's e-mail to NL by COB on Thursday, **10/11**. We should aim to have these materials approved by the chain-of-command not later than Friday, **10/26**, for delivery to Tiffany on Monday, **10/29**, for formatting, etc., prior to posting on the blog on Thursday, **11/1**.

John Vergelli  
FEC/OGC/GLA/Admin Law

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"Hitter, Thomas E"  
<Thomas.E.Hitter@usdoj.gov  
>  
10/24/2007 04:14 PM

To (b) (2)  
cc (b) (2) "Hendricks, Kenneth A"  
<Kenneth.A.Hendricks@usdoj.gov>  
bcc  
Subject RE: Transmission of FY 2007 FOIA Backlog Reduction  
Report

Thank you for your draft submission. We have completed our review. Please remove the "Use # from last column above" language from the 2009 and 2010 boxes in your charts (leaving just the projection numbers in those boxes). Then, please post your request projection chart on your FOIA Web site by November 1, 2007.

Since you reported no backlogged appeals as of the close of FY07, you need not post an appeals chart.

Please also note that your agency will need to track actual backlogs of requests for FY 08, 09, and 10 (or have the ability to determine actual backlogs at the end of each fiscal year), so that at a minimum you can see whether or not you met your projections.

Thank you.

Tom Hitter

Thomas E. Hitter  
Attorney-Advisor  
Office of Information and Privacy  
United States Department Of Justice  
202-307-6003

**From:** Hendricks, Kenneth A  
**Sent:** Wednesday, October 24, 2007 2:00 PM  
**To:** Hitter, Thomas E  
**Subject:** FW: Transmission of FY 2007 FOIA Backlog Reduction Report

**From:** (b) (2) (b) (2) [mailto:(b) (2)]  
**Sent:** Tuesday, October 23, 2007 9:41 PM  
**To:** Hendricks, Kenneth A; thomas.a.hitter@usdoj.gov  
**Cc:** (b) (2)  
**Subject:** Transmission of FY 2007 FOIA Backlog Reduction Report

Attached please find the Federal Election Commission's FOIA Backlog Reduction Goals (PDF). If you have any questions please contact me, or FOIA Public Liaison Nicole St. Louis, at (202) 694-1650.



Lawrence Calvert/FEC/US  
10/16/2007 03:22 PM

To: Nicole J St Louis/FEC/US@FEC, John  
Vergelli/FEC/US@FEC  
cc  
bcc  
Subject: Backlog Reduction Language

After you note the 73% increase at the top of 2, this:

Some of the factors that led to this increase may not recur. For instance, a number of requests received in FY 2007 related to ongoing and, especially, recently completed personnel actions, including some related to an IG investigation completed in September 2006 that qualifies as an unusual circumstance. Others are more likely to recur, at least in 2008. For instance, a number of requests appear to have been generated by "opposition research" efforts relative to the upcoming 2008 elections, particularly the presidential election. Several others, and particularly in increase in smaller, more generic, and more easily responded-to requests, may be attributable to the increased profile of FOIA government-wide in the wake of Executive Order 13,392.

Accordingly, we predict that the number of requests during FY 2008 . . . [pickup page 2, line 4].

Nicole J St Louis/FEC/US  
11/05/2007 04:16 PM

To (b) (2)  
cc  
bcc  
Subject Fw: Proposed plan for completing "FOIA staff awareness training"

This addresses the "who" question.

----- Forwarded by Nicole J St Louis/FEC/US on 11/05/2007 04:15 PM -----

John Vergelli/FEC/US

To Lawrence Calvert/FEC/US@FEC

cc Nicole J St Louis/FEC/US@FEC

09/10/2007 02:34 PM

Subject Proposed plan for completing "FOIA staff awareness training"

"Improvement 3.A." of the FEC's EO 13392 Implementation Plan calls for "staff awareness training" to be conducted in 2006-7. We conducted a "pilot program" by providing the training to one of the Enforcement teams in Dec. 2006. At about that time, the now-GC and I agreed that we could satisfy the requirements of the Implementation Plan by providing the training to certain important units within the agency, rather than attempting to train all or almost personnel. That still seems like a good idea.

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- The (remaining) Enforcement teams
- CELA
- RAD
- Congressional Affairs
- Contracting Officer
- HR/LR

As to the substance of the training, I've put a copy of the outline I used for the "pilot program" training session from 12/06. (DOCS # 28096.) It took about 30 mins (including q & a) to conduct the session, and it seemed to me and to Mark Shonkwiler, the leader of the Enforcement team, as about right in terms of depth and time. The outline needs a bit of updating (i.e., to reflect personnel changes), but, all in all, I think it works.

Larry, let me know if you want to add or subtract any units to the line-up, and whether you have any changes to the outline (NL has already given her input). I'll then get started on scheduling.

John Vergelli  
FEC/OGC/GLA/Admin Law

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John Vergelli/FEC/US  
11/08/2007 09:12 AM

To: Nicole J St Louis/FEC/US  
cc  
bcc  
Subject: Draft e-mail for Ch. FOIA Ofcr. re staff awareness training.

Draft e-mail for Ch. FOIA Ofcr. to send to FEC-Wide:

>>>>>

The FEC, like virtually all federal agencies, must comply with the Freedom of Information Act (FOIA). As you probably know, FOIA allows any person to request and receive, subject to a few exceptions, documents from federal agencies. Many of you have already helped search for documents in response to a FOIA request.

As the FEC's Chief FOIA Officer, I coordinate the FEC's operations in compliance with FOIA. Administrative Law Team Leader Nicole St. Louis serves as the agency's FOIA Public Liaison, and personnel from the Administrative Law Team staff the FOIA Service Center.

As part of our continuing efforts to improve the FEC's administration of FOIA, we have posted a short staff awareness training document on the FEC Blog. While all hands are invited to read the document, the training (i.e., reading the document) is mandatory for personnel in the following divisions:

- Administrative Office
- CELA
- Commission Secretary's Office
- Congressional Affairs
- Human Resources
- OGC Enforcement Teams 1 - 6
- OGC Litigation Teams 1 & 2
- OGC Policy Teams 1 & 2
- RAD

Personnel in these units must read the training by December 1, 2007, and sign a verification roster that will be provided to the supervisors of these units.

If you have any questions, or any suggestions for improving this training, please contact Nicole St. Louis (x 1342).

<<<<<

John Vergelli  
FEC/OGC/GLA/Admin Law

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Nicole J St Louis/FEC/US  
11/08/2007 11:11 AM

To (b) (2)  
cc  
bcc  
Subject Fw: Draft e-mail for Ch. FOIA Ofcr. re staff awareness training.

Below is the draft email for you to send next week sometime. I would change it around and send it out this week but I do not know if the various managers have been briefed yet. If not, I'll inform the OGC managers on Friday and try to get around to talk to the others also on Friday. I'll leave you a message of my progress since I'll be out Tuesday. Would you prefer that I hold off on everything and wait until you return?

----- Forwarded by Nicole J St Louis/FEC/US on 11/08/2007 11:07 AM -----

John Vergelli/FEC/US

To Nicole J St Louis/FEC/US@FEC

cc

11/08/2007 09:12 AM

Subject Draft e-mail for Ch. FOIA Ofcr. re staff awareness training.

Draft e-mail for Ch. FOIA Ofcr. to send to FEC-Wide:

>>>>

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As the FEC's Chief FOIA Officer, I coordinate the FEC's operations in compliance with FOIA. Administrative Law Team Leader Nicole St. Louis serves as the agency's FOIA Public Liaison, and personnel from the Administrative Law Team staff the FOIA Service Center.

As part of our continuing efforts to improve the FEC's administration of FOIA, we have posted a short staff awareness training document on the FEC Blog. While all hands are invited to read the document, the training (i.e., reading the document) is mandatory for personnel in the following divisions:

- Administrative Office
- CELA
- Commission Secretary's Office
- Congressional Affairs
- Human Resources
- OGC Enforcement Teams 1 - 6
- OGC Litigation Teams 1 & 2
- OGC Policy Teams 1 & 2
- RAD

Personnel in these units must read the training by December 1, 2007, and sign a verification roster that will be provided to the supervisors of these units.

If you have any questions, or any suggestions for improving this training, please contact Nicole St. Louis (x 1342).

<<<<<

John Vergelli  
FEC/OGC/GLA/Admin Law

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John Vergelli/FEC/US  
11/13/2007 01:58 PM

To Lawrence Calvert/FEC/US@FEC  
cc Nicole J St Louis/FEC/US@FEC  
bcc  
Subject (Revised) draft e-mail for Ch. FOIA Officer

Revised draft e-mail for Ch. FOIA Ofcr. to send to FEC-Wide. The only change from the previous version, which we discussed this morning, is underlined sentence.

>>>>

The FEC, like virtually all federal agencies, must comply with the Freedom of Information Act (FOIA). As you probably know, FOIA allows any person to request and receive, subject to a few exceptions, documents from federal agencies. Many of you have already helped search for documents in response to a FOIA request.

As the FEC's Chief FOIA Officer, I coordinate the FEC's operations in compliance with FOIA. Administrative Law Team Leader Nicole St. Louis serves as the agency's FOIA Public Liaison, and personnel from the Administrative Law Team staff the FOIA Service Center.

As part of our continuing efforts to improve the FEC's administration of FOIA, we have posted a short staff awareness training document on the FEC Blog. This training is one part of our formal plan, as approved by the Commission, to implement a recent Executive Order (no. 13392) requiring agencies to take certain steps to improve their administration of FOIA. While all hands are invited to read the document, the training (i.e., reading the document) is mandatory for personnel in the following divisions:

- Administrative Office
- CELA
- Commission Secretary's Office
- Congressional Affairs
- Human Resources
- OGC Enforcement Teams 1 - 6
- OGC Litigation Teams 1 & 2
- OGC Policy Teams 1 & 2
- RAD

Personnel in these units must read the training by **December 1, 2007**, and sign a verification roster that will be provided to the supervisors of these units.

If you have any questions, or any suggestions for improving this training, please contact Nicole St. Louis (x 1342).

<<<<

John Vergelli  
FEC/OGC/GLA/Admin Law

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(b) (5)

(b) (2)

(b) (5)



Gregory Baker/FEC/US  
07/17/2007 03:00 PM

To Thomasenia Duncan/FEC/US@FEC  
cc Ann Marie Terzaken/FEC/US@FEC, David  
Kolker/FEC/US@FEC, Lawrence Calvert/FEC/US@FEC,  
Nicole J St Louis/FEC/US@FEC, Renee  
bcc  
Subject Re: FY09 Budget Request -- Your comments as soon as  
possible, please. 

Per Tommie's email . . . . . Here is the Wish List document. . . .



OGC Budget Wish List (FY '09) (by category).doc  
Thomasenia Duncan/FEC/US

Thomasenia Duncan/FEC/US  
07/17/2007 02:53 PM

To Lawrence Calvert/FEC/US@FEC, Nicole J St  
Louis/FEC/US@FEC, David Kolker/FEC/US@FEC, Rosie  
Smith/FEC/US@FEC, Ann Marie Terzaken/FEC/US@FEC  
cc Gregory Baker/FEC/US@FEC, Renee Curtis/FEC/US@FEC  
Subject FY09 Budget Request -- Your comments as soon as  
possible, please.

**We've been asked on rather short notice to provide a preliminary justification for the increase in FTE we expect to request for FY09. You might recall mention of this request for an increase in FTE when Greg asked for your feedback in preparing our FY09 budget "wish list." (Greg will resend that final document to you). Our current FTE ceiling is 123. In the wish list exercise, we projected possibly requesting an increase of 12 FTE. Please let me have you comments on the paragraphs below, and in addition please look back at the additional FTE projections for your division, and give me a sense of whether they are realistic and justifiable. It will be important to be able to specifically justify any increase we request. Also, I am completely open to the possibility that a division simply will not need an increase in FTE, particularly if we fill the vacancies we have and get to our current ceiling. Please let me have your thoughts as soon as possible so that we can convey them to the CFO in preparation for an upcoming Finance Committee meeting. Thanks.**

#### **Office of General Counsel**

The Office of General Counsel anticipates that there will be a 200% increase in the Enforcement caseload in FY 2009. Typically, the Enforcement caseload reaches its peak in December of the presidential election year (calendar year 2008), and does not subside until the early-summer of calendar year 2009. In past presidential election cycles, the total Enforcement caseload topped 350 cases. As of July 17, 2007, the enforcement caseload totaled 120 (active and inactive) cases. Although OGC has implemented several management initiatives to help streamline the enforcement process over the past several years, there still is the need for additional staff resources to handle the increased workload. By doing so, OGC hopes to increase the total number of active cases during the peak period following the election, as well as the average

number of cases per attorney. In order to maintain our current efficiency in the CELA Docket, we will need additional staff resources to process the large volume of materials during the peak period.

We also anticipate additional workload for the other divisions within OGC due to the increased activity stemming from the 2008 election cycle. In Litigation and Policy, it is reasonable to anticipate an increase in litigation matters due to the number of enforcement matters we expect to handle, as well as a rise in the number of advisory opinion requests. In GLA, we anticipate a sharp increase in the number of closed Enforcement files to be placed on the public record. Aside from the increased workload due to the presidential election, GLA has taken over the Privacy Act, FOIA, and Sunshine Act responsibilities for the agency without a corresponding increase in its FTE. GLA also took on the additional responsibility of advising the Office of Administrative Review, and has become more actively involved in responding to questions from offices under the Staff Director, including questions relating to appropriations law and the agency's financial management.

**OGC FY '09 Budget Wish List**  
**(6/8/07)**

***Staffing needs –***

With the 2008 election cycle approaching, OGC will need additional FTEs to ensure that it fully meets its responsibilities. During a presidential election cycle, we typically see a three-fold increase in the number of enforcement cases as well as an increased number of AO Requests and increased litigation. To meet this increased workload, we project the need for a total of 12 additional FTEs (above the 123 FTEs authorized for FYs '07 and '08, or 135 FTE total). The basis for this projection is briefly described below. If required, we can provide a more detailed explanation and justification for our FY '09 projected staffing needs.

- If the Supreme Court's decision in *WRTL* opens up a flood of as-applied challenges to the Act, or if the Commission significantly increases the number of enforcement actions it authorizes, Litigation would need to add additional attorneys to its staff. (1-2 additional FTE)
- Policy likely would add one attorney for FY '09 since during a presidential election cycle Policy historically peaks for AOs, especially 20-day AOs and other AOs coming under the newly created expedited procedures. (1 additional FTE)
- CELA needs one additional FTE full time file clerk (GS 5/6) to assist with the day-to-day filing and increased scanning responsibilities during the height of the election season. There also is a need to create a senior paralegal position for CELA (GS 12). Given the increased responsibilities of the CELA paralegals in recent years and the increasing demand for tracking and interpreting data, it would be beneficial to upgrade one the paralegal positions to the GS 12-level to reflect the increased complexity of the job. (1 additional FTE)
- Enforcement likely would need an additional 3 to 5 FTEs to help it complete the large number of cases expected to come in before and after the 2008 elections. (3-5 additional FTE)
- GLA needs one to two FTEs for Admin Law (attorneys) as well as an administrative assistant for the Admin Law Assistant General Counsel and a senior paralegal for the FOIA team (GS 12). The additional staff are required to handle the marked increase in requests for general law advice from the various areas within the Office of the Staff Director, as well as the division's responsibilities for compliance with FOIA, the Privacy Act and the Sunshine Act, in addition to advising OAR on administrative fines matters. These latter responsibilities were added in 2006 without accompanying additional FTE. (3-4 additional FTE)

***IT projects –***

- High-speed scanners that are tied directly into our network (4<sup>th</sup> and 6<sup>th</sup> floors). We ultimately want at least one high-speed scanner for each Division within OGC (5 total).
- A fax machine that creates electronic images of documents sent and received and that is tied into our network (4<sup>th</sup> and 6<sup>th</sup> floors).
- In Litigation, a computer workstation that is tied to the small scanner we recently acquired.
- Adobe Acrobat 8 for all attorneys, paralegals, and secretaries in OGC.
- Blackberries for staff attorneys who are interested in having them.
- Document Management Software for organizing legal research files and large discovery.
- A few copies of voice recognition software (Litigation/Enforcement).
- DOCS OPEN for the entire Policy Division.
- Upgrade OGC's version of *Word* to coincide with the version being used on the 9<sup>th</sup> floor. It is our understanding that this is scheduled to happen in the near future.
- In CELA, additional Crystal Report functionality to produce our weekly, monthly, quarterly, and yearly reports. It is our understanding that this request is in process within ITD.
- In GLA, redaction software for the entire Admin Law team (along with the Adobe 8 noted above).
- *SmartBoards* for the 4<sup>th</sup> and 6<sup>th</sup> floor conference rooms (for OGC-wide use).

***Equipment/Facilities (rough cost estimates in parentheses) –***

- **Replace old office furniture throughout OGC, particularly the old office chairs that were purchased in the early-90's. For example,** bigger, management-size desks for the Litigation and GLA Assistant General Counsels' offices and the GLA Associate General Counsel's office. (\$30,000 to \$40,000).

- Modernize facilities and workspace in the CELA Docket and LSI areas. This would entail new construction, a new filing system (physical), new furniture and other equipment.
- Sophisticated sliding shelving for the litigation file room for easy access to documents in ongoing large cases. (Several thousand dollars).
- Additional lighting for the litigation conference room. (Two hundred dollars).
- Additional/replacement *tall* bookshelves for litigation conference room. (One thousand dollars).
- In Enforcement, file cabinets for the Associate General Counsel's suite (we are at maximum capacity right now), preferably wood cabinets.

***Training***

To promote the quality of work and skills of OGC staff and managers by providing appropriate training and career development, we request sufficient funds for the following training items:

- Legal writing training for the whole Office.
- Negotiation training for Enforcement, GLA and Litigation attorneys.
- For GLA attorneys, financial statement/accounting/basic auditing training and expert level/update training in FOIA/Privacy Act, EEO, personnel and labor/management law.
- Additional training for the new Admin Law attorneys (*i.e.*, government contracts law and appropriations law).
- Management training for the new Assistant General Counsels in OGC (5).
- Training budget that will allow us to continue to send new hires to NITA deposition or negotiation skills training (\$25,000?).

***Travel***

- Allotments for travel and deposition expenses above the FY '08 levels to account for additional casework expected in FY '09 (particularly for Litigation and Enforcement).

***Other expenses***

- Adequate funds to be made available for outside contracting of large photocopying/OCR jobs.
- Adequate funds to be made available for hiring expert witnesses.

- A large increase in the court reporter and transcript budget to cover rulemaking hearings, probable cause hearings and Title 26 matters (\$25,000?). [Should the money for Commission hearings on rulemakings or Title 26 matters to be paid for out of OGC's budget? Court reporter and transcript services can be considerable].
- A small allotment (\$5,000-\$10,000?) for cash awards for special employee recognition throughout the year.
- An allotment to start a federal student loan repayment program to help us recruit and retain highly qualified and functioning attorneys. Many agencies that we compete with for talent offer these programs, *e.g.*, DOJ.
- Subsidized federal day care (again to help us recruit and retain the best talent).

Lawrence Calvert/FEC/US  
07/17/2007 03:04 PM

To (b) (2)  
cc  
bcc  
Subject Fw: FY09 Budget Request -- Your comments as soon as possible, please.

Were we able to get a soft copy of the comparable agencies' Admin Law FTEs to Tommie?

-----  
Sent from my BlackBerry Wireless Handheld  
Thomasenia Duncan  
----- Original Message -----

**From:** Thomasenia Duncan  
**Sent:** 07/17/2007 02:53 PM EDT  
**To:** Lawrence Calvert; Nicole St Louis; David Kolker; Rosie Smith; Ann Marie Terzaken  
**Cc:** Gregory Baker; Renee Curtis  
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Lawrence Calvert/FEC/US  
07/17/2007 04:07 PM

To Nicole J St Louis/FEC/US@FEC  
cc  
bcc  
Subject Re: Fw: FY09 Budget Request -- Your comments as soon as possible, please. [ ]

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07/17/2007 04:17 PM

To: Lawrence Calvert/FEC/US@FEC  
cc  
bcc  
Subject: Re: Fw: FY09 Budget Request -- Your comments as soon as possible, please. 


History:  This message has been replied to.

I don't think so. the numbers were varied... here are some

Export-Import Bank- 370 total employees, 3 attorney's, 6 support and they only had 12 FOIA's last year  
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Nicole J St Louis/FEC/US  
07/17/2007 04:27 PM

To Lawrence Calvert/FEC/US  
cc  
bcc  
Subject Re: Fw: FY09 Budget Request -- Your comments as soon as possible, please. [ ]

2 had more than 6 that weren't comparable (one lower and 1 higher) so yes we'd be at the high end.  
Lawrence Calvert/FEC/US

Lawrence Calvert/FEC/US  
07/17/2007 04:23 PM

To Nicole J St Louis/FEC/US@FEC  
cc  
Subject Re: Fw: FY09 Budget Request -- Your comments as soon as possible, please. [ ]

Well, no one had any more than six attorneys, so having six would put us on the high end, right?

-----  
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Nicole J St Louis  
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Lawrence Calvert/FEC/US

07/17/2007 03:04 PM

To (b) (2)

cc

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Sent from my BlackBerry Wireless Handheld

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Lawrence Calvert/FEC/US  
07/17/2007 04:33 PM

To: Thomasenia Duncan/FEC/US@FEC, Nicole J St  
Louis/FEC/US@FEC, David Kolker/FEC/US@FEC, Rosie  
Smith/FEC/US@FEC, Ann Marie Terzaken/FEC/US@FEC  
cc: Gregory Baker/FEC/US@FEC, Renee Curtis/FEC/US@FEC  
bcc  
Subject: Re: FY09 Budget Request -- Your comments as soon as  
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Nicole J St Louis/FEC/US  
07/17/2007 04:28 PM

To Thomasenia Duncan/FEC/US@FEC  
cc (b) (2)  
bcc  
Subject Re: Can you send me whatever you have on comparable agencies' GLA office staffing numbers? Thanks. 

Here it is...

USTDA is not included on the chart. They have 50 employees and 4 attorneys.

Lawrence Calvert/FEC/US

07/16/2007 04:44 PM

To Thomasenia Duncan/FEC/US@FEC  
cc Nicole J St Louis/FEC/US@FEC  
Subje Re: Can you send me whatever you have on comparable agencies' GLA office staffing numbers?  
ct Thanks. [Link](#)

Nicole's got the soft copy (I think), so I've cc'd her on this response so she can send you what she's got by return EM.

Thomasenia Duncan/FEC/US

07/16/2007 04:22 PM

To Lawrence Calvert/FEC/US@FEC  
cc  
Subjec Can you send me whatever you have on comparable agencies' GLA office staffing numbers?  
t Thanks.



admin law staff size.xls

OGC Admin Law Staff Size

Size	Agency	Lawyers	Support	FY '06 FOIA Requests	Notes
46	NATIONAL MEDIATION BOARD	10		23	
265	FED MEDIATION AND CONCILIATION SERVICE	2.5	1	122	
356	FEDERAL ELECTION COMMISSION			FY '06 requests - 49 (56 requests have been made since 10/1/06)	
370	EXPORT-IMPORT BANK OF THE UNITED STATES	3	6	12	
386	NATIONAL TRANSPORTATION SAFETY BOARD	6		555 - FOIA handled by separate FOIA office	
388	U.S. INTERNATIONAL TRADE COMMISSION	2	0	42	They receive part-time help as needed from other OGC lawyers equivalent to 1.5 FTE
402	CONSUMER PRODUCT SAFETY COMMISSION	3	1 -(shared with other teams)	4,700 - FOIA handled by separate compliance office	
1683	BROADCASTING BOARD OF GOVERNORS	8	2	59	

8/25/2008

Nicole J St Louis/FEC/US  
07/30/2007 12:43 PM

To Lawrence Calvert/FEC/US@FEC  
cc  
bcc  
Subject Re: Fw: OGC FY '09 Budget Justification

Draft response:

The Admin. Law team has taken on additional statutory responsibilities without an increase in FTEs. Specifically, in 2006 the Admin. Law team became responsible for processing Freedom of Information Act (FOIA) requests and managing agency compliance with Privacy Act requirements. Ensuring agency compliance with the requirements of both Acts could easily encumber 2 full-time FTEs' daily responsibilities. Moreover, other government-wide requirements have been enacted such as the No FEAR Act and E.O. 13392 regarding the FOIA which require the team's legal advice and management.

Lastly, prior to 2003 the Admin. Law team's work primarily focused on processing enforcement matters, in addition to a smattering of personnel, contract, and EEO related matters. Since that time, the team's role within the agency has increased to be that of a more traditional in-house/Agency Counsel. The team is contacted more frequently concerning fiscal law and human capital questions. Importantly, the team is also asked to provide legal advice regarding agency policy particularly since there may be a government-wide rules or regulations that govern.

The increase in the type of work does is on top of an increase in the amount of the work the team traditionally focused on- i.e. processing closed MURs. While the type and amount of work has increased, the number of FTEs slotted for the team has not.

Lawrence Calvert/FEC/US

Lawrence Calvert/FEC/US  
07/27/2007 12:22 PM

To Nicole J St Louis/FEC/US@FEC  
cc  
Subject Fw: OGC FY '09 Budget Justification

----- Forwarded by Lawrence Calvert/FEC/US on 07/27/2007 12:21 PM -----



Gregory Baker/FEC/US  
07/26/2007 10:14 AM

To Rosie Smith/FEC/US@FEC, David Kolker/FEC/US@FEC,  
Lawrence Calvert/FEC/US@FEC, Ann Marie  
Terzaken/FEC/US@FEC  
cc Thomasenia Duncan/FEC/US@FEC, Renee  
Curtis/FEC/US@FEC  
Subject OGC FY '09 Budget Justification

In the wake of yesterday's Finance Committee meeting re: the FY '09 budget justification, we were asked to provide more detailed statistical information supporting our request for additional FTE. I have sufficient stats supporting our requests for Enforcement and CELA, but I need some help with Litigation and Policy. Are there some stats you can provide that will illustrate what the workload might be in FY '09? We can probably look back to historical averages for past presidential election cycles. I realize that BCRA

probably skewed some of the numbers in non-presidential election years. Rosie, one question that came up from the Chairman was that wouldn't we expect most of the AORs to come in prior to the election, not after the election. So, why would we need additional FTE in FY '09 which is mostly after the elections. LC, are there any stats for GLA that might be useful -- # of case closeouts during presidential election years? What ever you can provide will be greatly appreciated. We need to get something back up to the Budget folks by Friday afternoon. Thank you!!!!

(b) (5)

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