

National Aeronautics and Space Administration
Office of Inspector General
Washington, DC 20546-0001



JUN 14 2013

Mr. Allan Blutstein
Cause of Action
1919 Pennsylvania Ave, NW
Suite 650
Washington, DC 20006

SUBJECT: Freedom of Information Act (FOIA) Request
Office of Inspector General FOIA Request Number 2013-16

Dear Mr. Blutstein:

I am responding to your May 30, 2013, request that you submitted to the NASA Office of Inspector General (OIG). You requested a copy of the OIG response to a letter dated August 23, 2010 from Senator Charles Grassley and Representative Darrell Issa requesting a review on the interaction of political appointees with the FOIA process.

The enclosed document is being released to you in its entirety and responds completely to your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Francis P. LaRocca".

Francis P. LaRocca
Counsel to the Inspector General

Enclosure

National Aeronautics and
Space Administration

Office of Inspector General
Washington, DC 20546-0001



September 15, 2010

The Honorable Charles E. Grassley
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510-6200

The Honorable Darrell Issa
Ranking Member
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Senator Grassley and Congressman Issa:

I write in response to your August 23, 2010, letter to the NASA Office of the Inspector General (OIG) requesting an inquiry into NASA's Freedom of Information Act (FOIA) practices. Specifically, you asked us to determine whether "political appointees are made aware of information requests and have a role in request reviews or decision-making" with respect to FOIA requests.

In response to your request, we interviewed the career employee with primary responsibility for FOIA matters at NASA, as well as her two predecessors. The tenure of these three individuals spans approximately the past 7 years. In addition, in preparing this response we reviewed NASA's FOIA tracking system, FOIAXpress and evaluated the status of NASA's FOIA backlog.¹

We concluded that political appointees are not involved in the daily processing of FOIA requests at NASA. While we found evidence that political appointees have sometimes been briefed about NASA's receipt of particular FOIA requests, they have had no role in determining the Agency's substantive response to FOIA requests.

Background

Executive Order 13392 requires the head of each Federal Government agency to designate a senior official at the Assistant Secretary or equivalent level to serve as its Chief FOIA Officer. At NASA, this role is filled by the Associate Administrator for the Office of

¹ Over the past 6 months, NASA has significantly reduced its FOIA backlog. As of August 30, 2010, the Agency's FOIA backlog had been reduced to 130 requests, down from 376 requests in February.

Communications, a political appointee. Although the Chief FOIA Officer has agency-wide responsibility for ensuring NASA's compliance with the statute, he or she is not involved in the daily processing of requests.

Day-to-day FOIA operations at NASA are overseen and conducted by career employees at 13 FOIA Requester Service Centers (FOIA Service Center) located at Headquarters, each of the 9 research/space/flight Centers, the Jet Propulsion Laboratory, and the Shared Services Center.² As noted above, NASA uses a system called FOIAXpress to electronically track and process FOIA requests it receives. No political appointees at NASA have access to FOIAXpress.

A career employee at Headquarters with the title Principal Agency FOIA Officer leads the Headquarters FOIA Service Center and oversees a staff composed of a FOIA Public Liaison Officer (Public Liaison) and FOIA Information Release Specialists (Specialists). In addition, the Principal FOIA Officer is responsible for overall FOIA policy at NASA, for coordinating requests that involve more than one FOIA Service Center, and for coordinating with other Federal Government agencies regarding FOIA matters. The Principal FOIA Officer reports to the Chief FOIA Officer who at NASA, as mentioned previously, is the Associate Administrator for the Office of Communications.

The other FOIA Service Centers are led by Public Liaisons and staffed by Specialists. The Public Liaisons report to career employees, typically the head of the public affairs division at their respective locations.³

Each FOIA Service Center is responsible for making the initial determination on FOIA requests, seeking records from the NASA Center or office with which it is co-located. For example, the Goddard FOIA Service Center makes this determination for requests seeking Goddard records. Initial determinations are the Agency's first substantive response to a FOIA request, *i.e.*, a release of documents, a determination that the Agency could not locate the requested records, or that the records are wholly or partially exempt from disclosure. Appeals from initial determinations are decided by the NASA Administrator or his designee, usually the Associate Administrator.

At the beginning of each week, the Public Liaisons provide the Principal FOIA Officer with information about FOIA requests received and being processed by their respective Service Centers, including the number of requests received, the number of open requests, the number of requests that have been pending for more than 20 days, and any "sensitive/hot topic" requests."⁴ The Principal FOIA Officer compiles and distributes this information to the

² Because the OIG processes FOIA requests seeking OIG records, it is also considered a FOIA Service Center. However, all aspects of processing of OIG-related requests, including appeals, are handled exclusively by OIG employees.

³ Exceptions are the Public Liaisons at Glenn Research Center, who reports to Glenn's Chief Counsel; at JPL, who reports to the NASA Management Office Director; and at the Shared Services Center, who reports to the Director of Services Delivery.

⁴ There is no agency-wide definition of this term. Accordingly, each Public Liaison uses his or her judgment regarding which requests to report.

various FOIA Service Centers and uses it to identify requests on which coordination is required. In addition, the FOIA Service Centers routinely notify the Principal FOIA Officer when they receive requests from the media.

Results of our Review

The current and former NASA Principal FOIA Officers we interviewed told us that during their tenures they had no interaction with NASA political appointees pertaining to NASA's substantive responses to individual FOIA requests. They explained that at the Headquarters FOIA Service Center, FOIA requests are assigned for processing to career staff who request responsive documents from the relevant program office, review the documents provided, and make the initial determination regarding the Agency's response. If that determination is full release of the responsive material, the process ends there. If, however, the staff recommends less than a full release, NASA's Office of General Counsel is consulted before a response is sent to the requestor. In addition, these individuals told us that although the logistics of how requests are processed in the field varies among FOIA Service Centers, they were unaware of any involvement by political appointees in the process at the field level.

One of the former Principal FOIA Officers we interviewed said that during his tenure he provided the Chief FOIA Officer with a weekly briefing regarding the overall status of FOIA processing at the Agency. At this briefing, he would also discuss any requests that might generate media attention so that the NASA Communications Office could be prepared to respond to questions or issues that might arise.

The current Principal FOIA Officer told us that her interactions with NASA political appointees have been focused on efforts to reduce the Agency's FOIA backlog. She said that she recently met with NASA Administrator Charles Bolden to discuss the importance of reducing NASA's backlog. She said that they did not discuss any specific FOIA requests during this meeting.

Conclusion

We found that political appointees are not involved with the daily processing of FOIA requests at NASA. We found evidence that over the past 7 years the Associate Administrator for the Office of Communications has been made aware of specific FOIA requests due to his role as both the Agency's Chief FOIA Officer and the head of NASA's Office of Communications. However, we found no evidence that the Associate Administrator has had any role in determining the Agency's substantive response to FOIA requests.⁵

⁵ This finding is consistent with the results of a previous investigation we conducted into delays by NASA in responding to FOIA requests seeking information related to climate change research. Our assessment in that review was that insufficient staffing, inadequate oversight, and lack of management attention rather than bad faith on the part of any NASA employee contributed to the delay in answering the FOIA requests in question.

Please contact me or Renee Juhans, OIG Executive Officer, at (202) 358-1220, if you have questions about our review.

Sincerely,

A handwritten signature in black ink, appearing to read "PKMJA". The letters are stylized and connected.

Paul K. Martin
Inspector General

cc: The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives