

# U.S. International Trade Commission

## Management Report - Freedom of Information Act Assessment



**OIG-MR-15-13**

**August 14, 2015**



**Office of Inspector General**

*The U.S. International Trade Commission is an independent, nonpartisan, quasi-judicial federal agency that provides trade expertise to both the legislative and executive branches of government, determines the impact of imports on U.S. industries, and directs actions against certain unfair trade practices, such as patent, trademark, and copyright infringement. USITC analysts and economists investigate and publish reports on U.S. industries and the global trends that affect them. The agency also maintains and publishes the Harmonized Tariff Schedule of the United States.*

*Commissioners*

*Meredith M. Broadbent, Chairman*

*Dean A. Pinkert, Vice Chairman*

*Irving Williamson*

*David S. Johanson*

*F. Scott Kieff*

*Rhonda K. Schmidlein*



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## UNITED STATES INTERNATIONAL TRADE COMMISSION

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### OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20436

August 14, 2015

IG-NN-023

Chairman Broadbent:

Attached for your information is the final report, Freedom of Information Act Assessment, OIG-MR-15-13. We performed this assessment at the request of the Committee on Homeland Security and Governmental Affairs (Committee).

The Committee requested an analysis of non-career employees involvement in the Freedom of Information Act response process. Specifically, to determine if their involvement caused undue delays or unnecessary withholding of information.

Our assessment did not find any issues with non-career employees involvement in the Freedom of Information Act response process. We are issuing this report to inform you of the results of our assessment. We have included our response to the Committee in Appendix A.

We did not issue any recommendations as a result of this assessment.

Philip M. Heneghan  
Inspector General

**U.S. International Trade Commission**  
**Management Report**

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# **U.S. International Trade Commission**

## **Management Report**

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### **Background**

On June 23, 2015, the Inspector General received a request from the Committee on Homeland Security and Governmental Affairs (Committee) to perform an analysis of non-career employees involved in the Freedom of Information Act (FOIA) process.

The Committee requested our analysis to determine if the involvement of non-career employees in the FOIA response process resulted in any undue delay of a response to any FOIA request. The Committee also requested a determination on whether the involvement of non-career employees resulted in the withholding of any document or portion of any document that would have otherwise been released but for the non-career official's involvement in the process.

Additionally, the Committee requested the Inspector General to seek a certification from the Chief FOIA Officer that the involvement of non-career officials has never resulted in the undue delay of a response to a FOIA request or the provision of less information than would have been provided but for the involvement of the non-career officials.

We are providing the results of this analysis below. A copy of the response to the Committee is provided in its entirety in Appendix A.

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### **Results of Review**

The first part of our review focused on response time for FOIA requests that were provided to non-career employees to respond. For each request, we calculated the number of business days from receipt to completion. We found the shortest response time was 17 days, the longest response time was 37 days, and the average response time was 27 business days. We determined the response times were reasonable and that the involvement of non-career employees did not result in any undue delay of a response to a FOIA request.

The Commission's Chief FOIA Officer, who is a career employee, makes the determination on whether to withhold documents or portions of documents on initial FOIA responses. The Chairman of the Commission, who is a non-career employee, makes this determination for FOIA appeals.

We reviewed a sample of FOIA appeals and found that the Office of General Counsel initially reviews the appeals, and provides recommendations to the Chairman on releasing or withholding information. We did not find any instances where the Chairman did not follow the guidance provided by the Office of General Counsel. Based on the Commission's process, and review of appeals records, we concluded that the involvement of non-career employees in the FOIA response process has not resulted in the unnecessary withholding of any document or portion of any document that would otherwise be released.

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**Objective, Scope, and Methodology**

**Objectives:**

- 1) Determine if the involvement of non-career employees involved in the FOIA process resulted in any undue delay of a response to any FOIA request.
- 2) Determine if the withholding of any document or portion of any document that would have otherwise been released but for the non-career official's involvement in the process.

**Scope:**

- FOIA requests directed to political appointed personal from January 1, 2009 through June 23, 2015.
- FOIA appeals submitted to the Commission from January 1, 2009 through June 23, 2015.
- Limitations: The data call requested information from January 1, 2007, however due to the Commission's record management practices, the scope was reduced by two years.

**Methodology:**

1. Gain understanding of the FOIA process from the Chief FOIA Officer.
  2. Obtain list from Chief FOIA Officer of FOIA requests that were submitted to the Commissioners for response for the period under review.
  3. Obtain list of all appeals submitted to the Commission for the period under review.
  4. Randomly sample FOIA appeals, determine the type of information that was not released and associated FOIA exemptions.
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**APPENDIX A: Inspector General Response to Committee**

OFFICE OF INSPECTOR GENERAL



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**UNITED STATES INTERNATIONAL TRADE COMMISSION**

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WASHINGTON, DC 20436

Via Electronic Transmission

August 14, 2015

IG-NN-022

The Honorable Ron Johnson  
Chairman  
Committee on Homeland Security and Governmental Affairs  
U.S. Senate  
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to letter dated June 23, 2015, requesting information on the involvement of non-career officials' involvement in the Freedom of Information Act (FOIA) response process from January 1, 2007, to the present. However, due to the Commission's records management practices, our review was limited to FOIA requests from January 1, 2009 to the present.

We did not find any instances where a non-career official's involvement resulted in any undue delay of a response to any FOIA request. We also did not find any instances in which the non-career official's involvement in the process resulted in the withholding of any document or portion of any document that would have otherwise been released.

As requested, we have attached the written certification from the Commission's Chief FOIA Officer.

Philip M. Heneghan  
Inspector General

cc: The Honorable Thomas R. Carper

Attachment

# U.S. International Trade Commission

## Management Report

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Office of the Secretary



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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Washington, D.C. 20436

August 13, 2015

Mr. Philip M. Heneghan  
Inspector General  
U.S. International Trade Commission  
500 E Street, SW, Room 515  
Washington, DC 20436

Dear Mr. Heneghan:

I hereby certify that non-career officials' involvement in a Freedom of Information Act (FOIA) response has never: 1) resulted in the undue delay of a response to a FOIA request; or 2) resulted in the provision of less information that would have been provided but for the involvement of non-career officials.

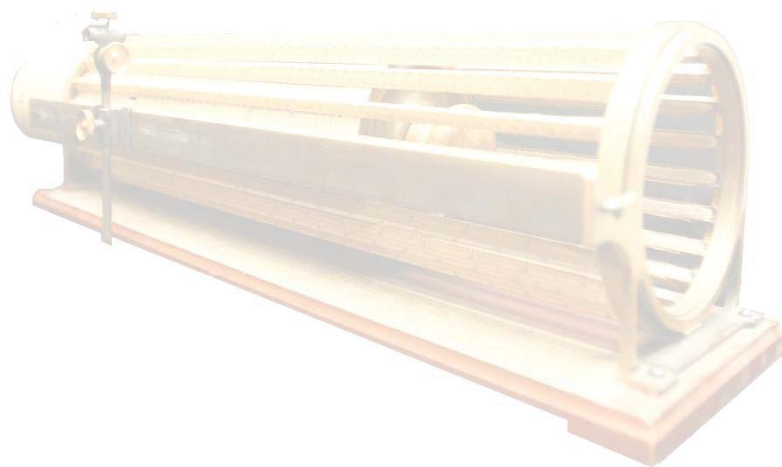
Please feel free to contact me with any additional questions or concerns at (202) 205-2595.

Sincerely,

A handwritten signature in blue ink, which appears to read "Lisa R. Barton".

Lisa R. Barton  
USITC Chief FOIA Officer





*"Thacher's Calculating Instrument" developed by Edwin Thacher in the late 1870s. It is a cylindrical, rotating slide rule able to quickly perform complex mathematical calculations involving roots and powers quickly. The instrument was used by architects, engineers, and actuaries as a measuring device.*

# To Promote and Preserve the Efficiency, Effectiveness, and Integrity of the U.S. International Trade Commission



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