Department of State FOIA Backlog Reduction Plan

Project Initiation Request, Project Definition Document and Risk Management Plan
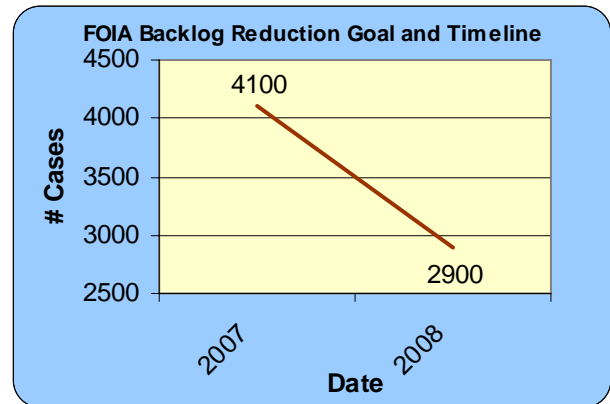
Goals and Objectives

The Department of State will increase responsiveness to requestors by decreasing the size and age of the FOIA backlog. The first goal is to reduce the backlog to 2900 pending FOIA cases by the end of FY2008. The Department's second goal is to try to close at a minimum the ten (10) oldest cases as defined in the FY2007 FOIA Annual Report.

Business Case

The Freedom of Information Act requires that agencies report annually to the Attorney General on their processing of FOIA requests. Starting in FY 2006, agencies were also required to report on their progress in implementing plans to improve FOIA operations, as directed by a December 2005 Executive Order (EO 13392, http://www.state.gov/documents/organization/87621.pdf). A major goal of EO 13392 was reducing backlogs of overdue FOIA requests. The Open Government Act of 2007 codified several aspects of EO 13392,

Figure 1.1: FOIA Backlog Reduction Goal

and specified new complex reporting changes concerning the scope and composition of the FOIA backlog. The GAO has recommended to Congress that agencies continue efforts to drive FOIA backlogs down. Last fall, the Department of Justice's Office of Information and Privacy mandated that agencies set, publish, and achieve very aggressive FOIA backlog reduction goals for the next three fiscal years for their agencies. The new goal of 2900 was predicated on the same or greater successes that the Department of State has achieved in past backlog reduction efforts. For each of the two fiscal years after FY2008, the Department will strive to further reduce the backlog. In striving to provide the best level of customer service possible, the Department releases documents incrementally throughout the life of the FOIA case, such that many requesters in the backlog have in fact already received a substantial amount of the information they sought. The Department aims to continue this best practice while focusing on completing more requests in full and in a more timely manner.

Project Requirement Statement

- Process cases to reduce the overall FOIA backlog and pay special attention to the ten (10) oldest cases
- Document, track and report progress of project to key stakeholders
- Create sustainable processes and procedures for continued reduction past 9/30/2008
- Fully staff and optimize existing Core FOIA Case Processing Team at the Department of State

Assumptions[1]

- The Department of State does not expect a decrease in the amount of new incoming requests
- Project leadership will remain constant
- Constant resources (fiscal and personnel) will be available through 9/30/2008 and beyond
- The Core FOIA Case Processing Team[2] and bureaus and posts will be adequately staffed to handle the volume of FOIA cases
- Non-Core FOIA Case Processing Team resources in the Department will be available to fulfill routine FOIA case processing duties
- The movement of work through the FOIA case processing workflow will be balanced by the appropriate application of resources at each stage to avoid bottlenecks
- A full complement of Information Technology resources will be available for all personnel
- The Department of State will develop policies and procedures leading to long-term, sustainable backlog processing
- The optimal number of resources with the proper level of expertise commensurate with FOIA activities will be allocated to FOIA case processing

Constraints[3]

- Longstanding vacancy rate of over 20%
- Continued turnover among staff has left capacity and knowledge gaps
- Personnel turnover results in new training and learning curve issues
- Due to their complexity, older cases tie up both non-Core FOIA Case Processing Team and experienced FOIA resources which reduces the overall case closure rate
- A majority of the FOIA workforce works on a part-time or intermittent basis
- The Department of State's FOIA Office is dependent on external offices to recruit and fulfill vacancies
- Many Department documents require special handling because they are classified and their release could harm national security and foreign relations or may result in the unwarranted invasion of personal privacy or other third-party interest. Additionally, a high proportion of documents contain equities of other agencies and governments which requires their clearance before release
- The FOIA workforce must have a national security clearance level of at least Secret or higher to process FOIA cases
- The Department of State requires former senior level officials with high levels of expertise and experience to serve as reviewers of State documents for release, which comprise a very small pool of candidates
- There is a direct correlation between resources and productivity, and the Department has many competing priorities for the FOIA resources it has available: responding to

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[1] Assumptions are circumstances and events that need to occur for the project to be successful, but can be outside the total control of the project team.
[2] See Organizational Structure for definition
[3] Constraints are items that might restrict, limit, or regulate the project. Generally constraints are outside the total control of the project team.

subpoenas and litigations demands, Congressional document production requests and the Department's systematic declassification review program under EO 12958

- Competition for qualified resources at all levels has increased with recently low unemployment and an increase in vacancies due to increasing retirement of "baby boomer" population
- The Department of State FOIA program has a significant dependency on 51 separate component offices and 272 posts worldwide to conduct searches and supply requested information
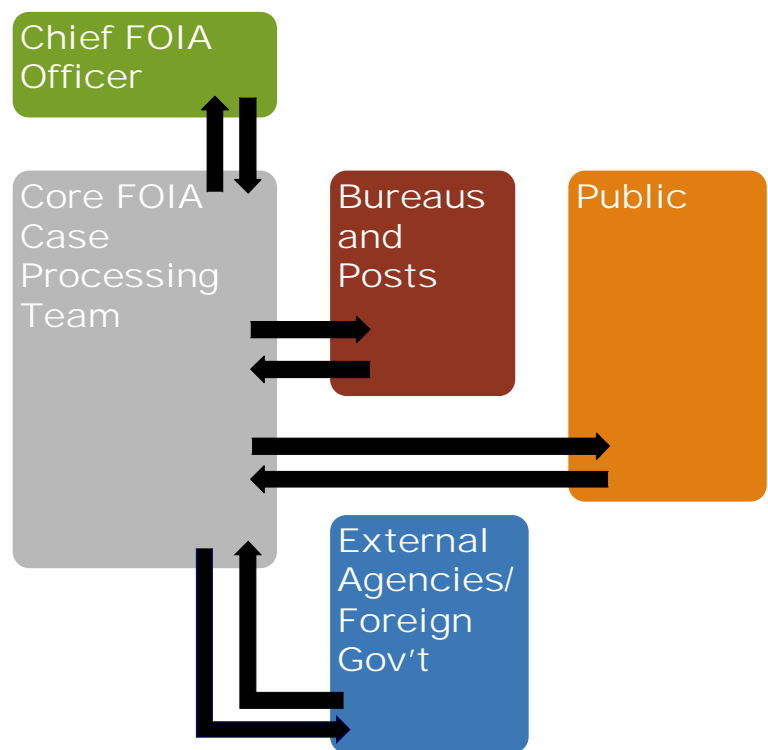
Organizational Structure

Although it is among the smallest of the Cabinet-level agencies, the Department of State (the "Department") literally spans the globe in order to accomplish its foreign policy, security, consular, and related responsibilities. The Department's physical facilities consist of over 250 embassies, consulates, and diplomatic missions in virtually every country in the world, numerous offices in and around the Washington, D.C. area, and a number of field offices throughout the United States. These worldwide offices do not operate as semi-independent "sub-agencies" within the Department – they collaborate extensively with each other in order to fulfill the Department's mission. This is why FOIA requests (even if limited to a single topic) regularly necessitate searches in multiple locations within the Department's hundreds of domestic and overseas facilities.

The Department operates its FOIA program through a centralized Core FOIA Team, which is part of the Bureau of Administration (Figure 2.1). The Assistant Secretary for Administration serves as the Department's Chief FOIA Officer.

Maintaining a centralized FOIA program for an agency as large, complex and globally situated as the Department is an enormous challenge. However, the centralized nature of the Department's FOIA program provides for better service for requesters, affords consistency in review, and allows for better control over the Department's information access programs.

The Department also interfaces with other Government agencies. Because the Department of State's work involves such an unusually high proportion of

Figure 2.1: FOIA Organizational Structure

information originating in other U.S. government agencies as well as in other governments, the Department is often unable to release requested information without external authorization, so the Department has a network of contacts for consultations and referrals of requested records.

Below are the key roles and responsibilities for the major components of the Department's FOIA program:

Chief FOIA Officer
- Agency-wide responsibility for compliance who will monitor agency-wide FOIA compliance and keep the head of the agency, chief legal office of the agency, and Attorney General informed of agency performance
- Recommend to the head of the agency changes to agency practices, policies, personnel, and funding necessary to improve FOIA implementation
- Upon request of the Attorney General, review and report, through the head of the agency, on the agency's FOIA performance
- Ensures inclusion of concise descriptions of the exemptions in both the agency's publicly available FOIA handbook and the agency's annual report and provide an overview, where appropriate, of certain general categories of agency records to which those exemptions apply
- Secures resources for the FOIA Program within the Department of State

Project Manager
- Endeavors to improve customer service and program performance
- Makes timely, effective decisions and produces results through strategic planning as well as the continued evaluation to meet project goals and objectives
- Designs and implements strategies to maximize project effectiveness
- Employs technology to enhance decision making
- Delegates work and monitors work progress effectively
- Plans, directs and coordinates all project functions; approves procedures and policies for project activities
- Reports on project progress to senior management

Core FOIA Case Processing Team
- Conducts initial analysis of incoming FOIA/Privacy Act (PA) requests to determine request sufficiency, evaluating for reasonableness and regulatory compliance
- Determines the appropriate systems of records for search and tasks Department components (bureaus and posts) to conduct research
- Assesses the validity, reliability, and relevance of material retrieved in response to requests
- Coordinates the review of responsive documents retrieved as a result of search actions
- Evaluates responses to ensure proper coordination with appropriate parties, compliance with policies and regulations, and full responsiveness to requests
- Prepares accurate responses to requests in a timely manner, providing clear and succinct explanations to requesters of their rights under the law
- Ensures accurate administrative record-keeping, both hard copy and electronic

Bureaus and Posts
- Search for and/or review responsive records in response to Core FOIA Team search taskings
- Ensure and document that the bureau and post search is accurate and complete
- As necessary, prepare responses to requests providing clear and succinct explanations to requesters of their rights
- Provide input from country or subject matter experts enabling the Core FOIA Team to make an informed review decision

External Agencies
- Conduct review of their agency's information and interests in response to requests from Core FOIA Team
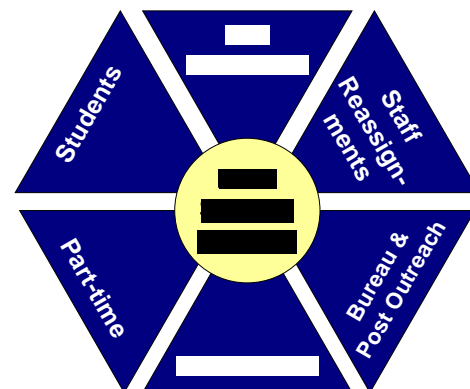- Provide appropriate and timely documentation of review decision to Department of State

Foreign Governments
- Conduct review of their government's information and interests in response to requests from Core FOIA Team

Resource Plan

State has the following personnel resources processing FOIA cases:
- Core FOIA Case Processing Team
  - Full-time Government Employees
  - Part-time Government Employees
  - Contractors
  - Students
- Bureaus and Posts

The Department of State recognizes the necessity to employ additional staff to further reduce the backlog. This staff augmentation plan's focus is on the Core FOIA Case Processing Team, which resides in the Bureau of Administration (headed by the Chief FOIA Officer as Assistant Secretary of Administration).

Figure 2.2: State's FOIA Staffing Strategy

State's FOIA program also facilitates bureaus' and posts' identifying resources to be assigned to process FOIA search requests and/or review internal material. As outlined in Figure 2.2, the Department of State intends to augment its staff the following ways:
- *Full-time Equivalent (FTE) openings*. The Bureau of Administration is working to recruit and fill 25-30 vacancies, most of which will be dedicated to FOIA case processing
- *Students*. The STARS (Success-Today and Tomorrow-Through Training and Recruiting Students) program attracts high-caliber, part-time student talent. It is one of the Department's strategies for bringing on new students, some of whom eventually work full-time in the FOIA program
- *Part-time*. The Department will continue to seek funding to increase the number of non-full-time Core FOIA Case Processing Team staff on a year-round basis

- *Contractors*. The Department will continue to rely on qualified contract staff to temporarily fill key positions (dependent on funding)
- *Reassignments*. The Department will detail resources with previous FOIA case processing experience to the extent possible (while minimizing impact to other programs)
- *Bureaus and Posts.* Through the Department's FOIA contact network, the Core FOIA Case Processing Team will continue to project workload scenarios for the individual bureaus and posts for them to adequately plan to answer FOIA search requests and conduct document reviews in a timely and accurate manner

Stakeholders

The FOIA Program has identified a variety of stakeholders affected by the implementation of a successful FOIA program:

- Secretary of State
- Under Secretary for Management
- Assistant Secretary for Administration / Chief FOIA Officer
- All Department of State bureaus and posts
- Core FOIA Case Processing Team
- The Public
- Congress
- Department of Justice
- Office of Management and Budget (OMB)
- Other Federal agencies

Work Breakdown Structure (WBS)

The WBS is a high-level list that is used to define and organize the entire scope of the project to accomplish the defined requirements.

1.1. Project Governance
  1.1.1. Create Backlog Reduction Project Steering Committee
  1.1.2. Create Steering Committee Advisors Group
1.2. Backlog Reduction Team
  1.2.1. Identify team members
  1.2.2. Create actionable items from Backlog Reduction Plan
1.3. Additional Resources
  1.3.1. Petition to reallocate resources to Core FOIA Case Processing Team
  1.3.2. Offer additional hours to part-time reviewers
  1.3.3. Overtime
    1.3.3.1. Develop an overtime strategy
    1.3.3.2. Offer overtime hours to analysts
  1.3.4. Fill vacancies
    1.3.4.1. Create staffing plan
    1.3.4.2. Verify/create position descriptions for vacancies
    1.3.4.3. Partner with Human Resources to fill vacancies
    1.3.4.4. Interview/hire/clear new employees
1.4. FOIA Case Processing Workflow

      1.4.1.   Discuss the way in which cases and casework are assigned

      1.4.2.   Verify existing case processing work standard operating procedures (SOP)

      1.4.3.   Identify less complex work to be assigned to less-experienced staff

      1.4.4.   Create detailed work process briefing

      1.4.5.   Administer briefing to Core FOIA Case Processing Team

1.5. Training

      1.5.1.   Identify required training

      1.5.2.   Conduct training for new personnel

          1.5.2.1.Completion of Forms/Access to Electronic Databases

          1.5.2.2.State's FOIA Organization Overview

          1.5.2.3.FOIA Referral Case Processing

          1.5.2.4.FOIA Case Processing

          1.5.2.5.FOIA Case Tracking System (FREEDOMS)

          1.5.2.6.Privacy Act Case Processing

          1.5.2.7.Retired Files: Manifest and File Searching Strategy

          1.5.2.8.Data Integrity

          1.5.2.9.Microfilm document retrieval

          1.5.2.10.   State Archiving System (SAS)/Search Strategies

          1.5.2.11.   Case File Organization

1.6. Work Execution

      1.6.1.   Utilize existing reports to focus on potentially closable cases with respect to First In First Out (FIFO)

      1.6.2.   Determine bottlenecks with open cases to reallocate resources

      1.6.3.   Process cases

1.7. Project Tracking/Monitoring

      1.7.1.   Create metrics, goals, and targets

      1.7.2.   Create progress monitoring tools

      1.7.3.   Use reports to plan processing strategy

      1.7.4.   Analyze weekly metrics

1.8. Communication

      1.8.1.   Send initial communication to key stakeholders describing backlog reduction project

      1.8.2.   Contact bureaus and posts with role in resolving 10 oldest cases

      1.8.3.   Send periodic communications to senior management on project status

   1.8.4.   Conduct weekly backlog reduction plan meetings

Risk Management Plan

Risk 1: Volume and Nature of New Requests

Description

The predicted number of incoming requests could increase or decrease significantly from historical levels. An increase would put a strain on existing resources and have a negative effect on reducing the backlog. A decrease in volume could allow the Department of State to reduce the backlog more quickly.

Different types of requests require different types of resources. If case type volumes differ from historical levels, State may not be able to bring on enough properly trained and certified resources to process the incoming caseload to prevent the cases entering the backlog. A surge in any one case type will require specialized resources which could result in processing delays until the resources are brought on board.

Impact/Probability

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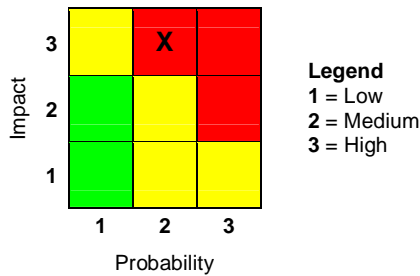
Mitigation/Contingency Strategy

- Continue to track incoming volume and nature of new requests on a weekly basis
- Look for seasonal trends
- Anticipate spikes based on major world and domestic events
- Extend expertise and flexibility of key FOIA Core Staff to be able to handle more types of cases
- Reschedule part-time resources to reflect type of caseloads requiring review
- Enlarge pool of part-time and on-demand staff through additional recruitment
- Utilize contract resources (if funds available)

Risk 2: Hiring Challenges

Description

The Core FOIA Team is not currently fully staffed and may have difficulty achieving and maintaining staffing levels. This includes filling open vacancies, backfilling turnover and opening up new positions as required by the demands of the FOIA case processing workload. Competition for qualified resources at all levels has intensified with recently low unemployment and an increase in vacancies across the American economy due to the rising retirement of "baby boomer" population. The hiring process is also complicated by the necessity for a security clearance, which can take 6-12 months to complete (causing otherwise qualified candidates to seek other employment).

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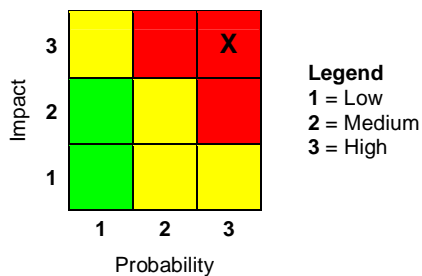
Mitigation/Contingency Strategy

- Review employee retention rates
- Fill existing vacancies
- Chief FOIA Officer prioritizes filling FOIA vacancies
- Increase number of students to assist with workload, funds permitting
- Increase reliance on contract FOIA workers, funds permitting
- Detail other State personnel with prior FOIA case processing experience to assist with case processing

Risk 3: Internal Competition for Personnel Resources

Description

Competing priorities within the Department of State could prevent FOIA experienced resources from being assigned to case processing. For example, the same resources that process cases are also needed for litigation support and similar document-intensive special projects. In addition, skilled resources have been reassigned for unfunded and/or other mandated programs such as Privacy Act, systematic declassification review program under EO 12958, and Records Management. Finally, cases that have been pending a long time, including the 10 oldest, typically are so because they are among the most difficult to complete and absorb a much larger amount of time relative to other cases. These cases tie-up experienced FOIA staff's time which could be spent closing a larger volume of less complex cases.

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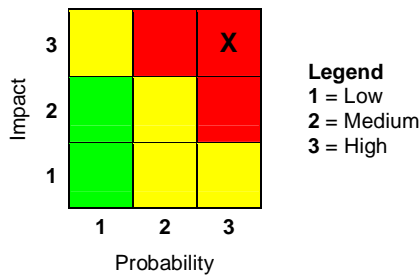
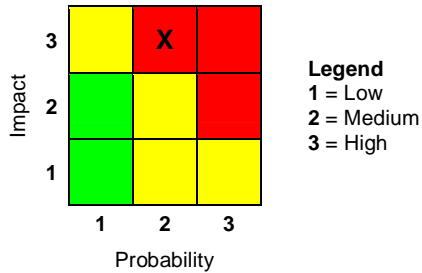*Mitigation/Contingency Strategy*

- Ask for additional funds to dedicate more resources for litigation, special projects, Privacy Act, systematic declassification review and Records Management
- Improve FOIA case processing to reduce exposure to FOIA litigation
- Utilize existing database reporting capabilities to identify point of action for resolving 10 oldest cases
- Partner with bureaus and posts to resolve outstanding responses which may be contributing to 10 oldest cases
- Use trend analysis to identify major causes of processing delay and devise corrective and/or preventive action strategies

Risk 4: Bureau and Post Responses

Description

Despite working hand-in-hand with 51 separate component offices and 272 posts worldwide, the FOIA Team may experience delays in receiving requested information. Typically bureaus and posts utilize non-FOIA dedicated employees diverted from their assigned duties to respond to FOIA requests. Delays in receiving responses could have a negative effect on case processing time.

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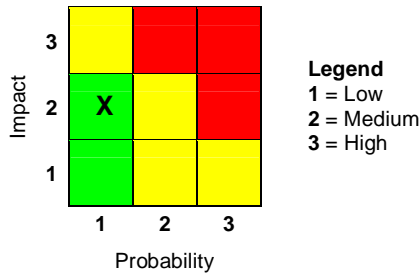
Mitigation/Contingency Strategy

- Clearly define task and provide guidelines for what information would be most useful to search
- Chief FOIA Officer supports greater collaboration between the Core FOIA Team and bureaus and posts
- Send SWAT teams out from the Core FOIA Team to bureaus and posts to execute searches and assist with reviews
- Explore moving to a shared services "chargeback" model, charging bureaus and posts for performing searches, alleviating bureaus and posts from diverting key personnel

Risk 5: Operational Bottlenecks

Description

Currently there are not enough FOIA staff to process FOIA cases. Assuming the Department could fill additional staffing needs, the Core FOIA Team could potentially create an operational bottleneck by augmenting the staff in one area but not taking into the account the effect in other areas of the FOIA workflow. This would reduce throughput which could have the potentially deleterious effect on backlog reduction. This could occur if the staffing needs change during the period between staff planning and position fulfillment.

Impact/Probability

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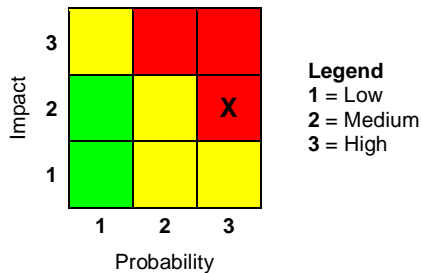
Mitigation/Contingency Strategy

- Carefully monitor component backlog queues (review, outprocessing, searching, etc.) to observe buildup and then readjust resources as necessary
- Forecast need for each type of resource and develop staffing plan accordingly

Risk 6: Loss of Institutional Knowledge

Description

The retirement of baby boomers and other employees with institutional knowledge could leave a knowledge gap within the FOIA case processing area. FOIA case production would slow down while new resources were brought on board, trained and given the experience necessary to process at faster levels.

Impact/Probability

Legend
1 = Low
2 = Medium
3 = High

Mitigation/Contingency Strategy

- Establish a knowledge repository with standard operating procedures (SOPs)
- Implement a formal mentoring program between more experienced members of the staff and recent hires
- Cross-train personnel to minimize impact of any one area losing institutional knowledge
- Offer incentives to retiring employees to stay on board for additional time

Risk 7: Funding

Description

With the possibility of continuing resolutions rather than budgets from Congress, funds will be effectively reduced. In this scenario, funding would be inadequate to employ the necessary complement of part-time Government staff, students and/or contractors to continue backlog reduction at the same pace.

In addition, the OPEN Government Act of 2007 allows some litigation plaintiffs to collect attorney fees from the Department of State, rather from the U.S. government's centralized judgment fund. Many of these costs, potentially significant and with unpredictable timing, could likely be paid for from the Department of State's FOIA budget. Because of the government's three-year budget cycle and the timing of the new Act, these costs are not currently accounted for through 2010. Although the Department prevails in litigation in the overwhelming majority of FOIA cases, it is likely that at least some cases in the future could lead to an award of attorney fees to the plaintiff.

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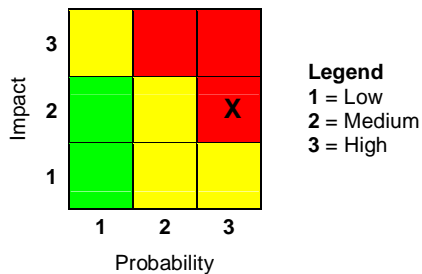
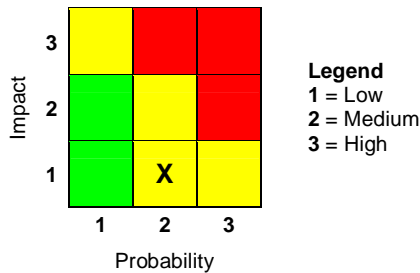*Mitigation/Contingency Strategy*

- Maintain readiness to add and utilize qualified staff quickly should funds become available.
- Shift focus temporarily to concentrate on full-time Government employee roles of backlog activity, until agency budget is finalized and continuing resolutions are eliminated
- Maintain high visibility of FOIA program within the Department to attract additional funding

Risk 8: Logistical Support

Description

The Department's FOIA case processing workflow is highly dependent on technology, whether it be tracking FOIA cases from cradle to grave or communicating with bureaus, posts and external agencies worldwide. The Department's FOIA personnel resources may experience delays in receiving the necessary information technology (IT) desktop and network support to maintain the software and hardware essential to processing FOIA cases. Disruption to IT service could result in case processing delays due to lost information, hold-ups in the workflow or delayed communication.

Impact/Probability

Legend
1 = Low
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3 = High

Mitigation/Contingency Strategy
- Attempt to forecast new employee arrivals with enough time to avoid lag in software/hardware installation
- Employ ready-to-go backup equipment to "hot swap" with malfunctioning equipment
- Budget time and money to continually perform preventive maintenance and adhere to life cycle replacement schedules