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Agency Performance Challenges and Agency  
Politicization

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# Agency Performance Challenges and Agency Politicization

Abby Wood and David E. Lewis

## Abstract

In this paper we evaluate the relationship between political control and bureaucratic performance using information requested by researchers via Freedom of Information Act (FOIA) requests and congress via congressional committee requests. The information requested was the same, and the timing of requests was similar. We find a relationship between agency politicization and a lack of responsiveness to requests for information from the public and Congress. Politicized agencies are slower to respond to requests even when controlling for agency size and workload. There is little evidence, however, that these agencies are more likely to respond poorly when they do respond. The difficulties in responding appear to be due to poor performance of the FOIA offices, either because political actors focus more on other agency activities or because of poorer management agency-wide, rather than intentional efforts to hide information or delay due to extra review. We conclude that efforts to make agencies responsive to elected officials may hurt management performance.

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### **Abstract**

In this paper we evaluate the relationship between political control and bureaucratic performance using information requested by researchers via Freedom of Information Act (FOIA) requests and congress via congressional committee requests. The information requested was the same, and the timing of requests was similar. We find a relationship between agency politicization and a lack of responsiveness to requests for information from the public and Congress. Politicized agencies are slower to respond to requests even when controlling for agency size and workload. There is little evidence, however, that these agencies are more likely to respond poorly when they do respond. The difficulties in responding appear to be due to poor performance of the FOIA offices, either because political actors focus more on other agency activities or because of poorer management agency-wide, rather than intentional efforts to hide information or delay due to extra review. We conclude that efforts to make agencies responsive to elected officials may hurt management performance.

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Questions of agency design are central to research on political accountability. From the moment they are created, agencies have different levels of political insulation that determine their level of responsiveness to elected officials (see, e.g., Lewis 2003; Moe 1989; Seidman

1998; Wood and Bohte 2004). Independent regulatory commissions, like the Federal Trade Commission or Nuclear Regulatory Commission, for example, are designed for insulation from political control. Other agencies, such as executive departments, are not designed with political insulation as a primary goal and are therefore much more vulnerable to pressures from elected politicians.

Institutional design, however, involves tradeoffs. Agency designs that facilitate political accountability to elected officials may help align agency policies with those of elected officials but damage the ability of the agency to implement those policies (see, e.g., Gailmard and Patty 2007; Light 1995; McCarty 2004). Some scholars suggest, for example, that designs that facilitate political accountability may introduce new layers of political review that hurt bureaucratic performance (Light 1995). Such designs may also accentuate the prioritization of political and immediate tasks, effectively crowding out attention and resources for other tasks (de Shazo and Freeman 2005; Dixit 2002; Holmstrom and Milgrom 1991; Wilson 1989). Finally, accountability designs may influence management quality by systematically increasing management turnover, emphasizing shorter time-horizons in planning, or altering worker incentives in the labor market in which agencies operate (see, e.g., Derlien 1996; Gailmard and Patty 2007; Lewis 2008; Suleiman 2003).

Of course, some scholars suggest that fully politicized structures or at-will personnel systems are best for performance while others suggest that a proper balance between political control and bureaucratic autonomy is optimal for performance (Bok 2003; Dunn 1997; Golden 2000; Krause, Lewis, and Douglas 2006; Maranto 1998). Unfortunately, the relationship between politicization and bureaucratic performance is difficult to evaluate because scholars disagree

about its effects, and comparative measures of bureaucratic performance are hard to find (see, e.g., Boyne 2003; Brewer and Selden 2000; Gilmour 2006; Moynihan et al. 2011; Radin 2006).

In this paper we evaluate the relationship between political control and bureaucratic performance using requests for information via Freedom of Information Act (FOIA) requests, exploiting the FOIA process itself to compare agency performance. We sent federal agencies identical FOIA requests and compared their responses to each other and to data provided by Rep. Darrell Issa (R-CA), Chair of the House Government Oversight and Reform Committee. Since all federal agencies are subject to FOIA requirements, we measure agency performance by recording features of agency responses to our requests and a set of nearly-identical committee requests about FOIA sent by Rep. Issa to 107 agencies. Rep. Issa sent his request shortly before our requests, and his requests included the same information we requested. The cooperation of the House Government Oversight and Reform Committee provides a unique opportunity to measure performance and to compare responsiveness to political principals vis-à-vis the public.

We find a relationship between politicization and a lack of responsiveness to FOIA requests. Politicized agencies are slower to respond to requests even when controlling for agency size and workload. There is little evidence, however, that these agencies are more likely to respond poorly when they do respond. The difficulties in responding appear to be due to poor performance of the FOIA offices, either because political actors focus more on other agency activities or because of poorer management agency-wide, rather than intentional efforts to hide information or delay due to extra review. We conclude that efforts to make agencies responsive to elected officials may hurt management performance.

## **POLITICIZATION AND PERFORMANCE**



Scholars have conducted important research showing the strategies presidents and Congress employ to control the bureaucracy and how such efforts have changed policy outputs (see, e.g., Moe 1982, 1985; Randall 1979; Stewart and Cromartie 1982; Weingast and Moran 1983; Wood and Waterman 1994). A separate literature describes how the politicization of the civil service in the United States and other countries creates performance problems (Cohen 1998; Dunn 1997; Durant 1992; Heclo 1975, 1977; Kaufman 1965; National Commission on the Public Service 1989, 2003; Newland 1983; Rosen 1983). In the United States the increased “presidentialization” of the administrative state is generally viewed in a negative light because of its effects on agency performance (Heclo 1975, 1977; Suleiman 2003; see, however, Moe 1985). Presidents have increased the number and penetration of appointees into the bureaucracy (Lewis 2008; National Commission on the Public Service 1989, 2003), extended their control of the selection of appointees to even those at the lowest levels and have increasingly focused on loyalty as a criteria for selection of appointees (see, e.g., Edwards 2001; Mackenzie 1981; Moe 1985; Pfiffner 1996; Weko 1995). Presidents have also gained greater control over budgets and regulation through the reorganization of the Bureau of the Budget into the Office of Management and Budget and the centralization of regulatory review under the Office of Information and Regulatory Affairs (Heclo 1975; Lewis and Moe 2009).

Agencies also respond to political principals in the legislature, who create and oversee most agencies (see e.g., Aberbach 1990; Dodd and Schott 1979; McCubbins and Schwartz 1984; Weingast and Moran 1983). Legislative committees can hold agencies accountable by calling agency executives to hearings where they can be publicly chastised for activities that the people disagree with. The legislature controls the power of the purse and thereby appropriations (Article I), which allows it to reduce agency funding in response to public dissatisfaction with agency

performance. The legislature can also threaten new legislation, threaten to grant or withhold authorization or appropriations, and otherwise creatively sanction executive officials from public sanction to the elimination of agencies or programs valued by executives (Aberbach 1990; Dodd and Schott 1979; McCubbins and Schwartz 1984). All combined, the legislature enjoys tremendous leverage to influence the behavior of agency appointees, another avenue for political accountability of agencies.

When examining the relationship between politicization and performance some scholars argue that performance problems stem from too little rather than too much political control of the bureaucracy.<sup>1</sup> One strand of this research focuses on the virtues of political appointees for performance, arguing that appointees are more capable than their careerist counterparts and bring necessary energy, risk-taking, and responsiveness to federal management (Bok 2003; Krause, Lewis, and Douglas 2006; Maranto 1998; Moe 1985). Another strand focuses on how removing civil service protections can improve performance. In this view, a personnel system with fewer civil service protections would more easily allow political leaders to recruit, promote, and retain employees on the basis of merit (Bilmes and Neal 2003; Maranto 1998). Leaders would be able to incentivize high performance with greater control over pay. If political leaders could hire, remove and reward more easily, they would be able to energize the public service and improve performance, attracting to the public sector high performing employees that are now choosing the private or not-for-profit sectors over government work (National Commission on the Public

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<sup>1</sup> One aspect of this debate is changes in civil service rules at the state level. Many states have gone to more at-will systems but the effects of such changes are not yet clear (Condrey and Battaglio 2007).

Service 1989). In addition, Congress, the press, and government unions would prevent over-politicization of administration (Maranto 1998).

While scholars have illustrated the means of political control and resultant changes on policy, they have been less successful evaluating the effect of such actions on agency competence and performance. This is largely due to difficulties measuring government performance across agencies and contexts. The most common methods of comparing agency performance include the use of surveys of employee attitudes or government-wide program management scores, such as the Bush Administration's PART scores (see, e.g., Brewer and Selden 2000; Lewis 2008). Each of these measures has limitations, and scholars have sought alternative measures of performance, focusing on common tasks many agencies must complete such as budget forecasting.<sup>2</sup> An examination of responses to FOIA requests and congressional requests about FOIA fits into the latter tradition and has the advantage of including a larger number of agencies than analyses examining budget forecasting performance.

### **HOW CAN POLITICIZATION HURT RESPONSIVENESS?**

In order to understand whether politicization helps or hurts performance it is important to specify the mechanisms by which politicization alters agency decisions and processes. The politicized structures and actions intended to increase agency responsiveness to the president and

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<sup>2</sup> Surveys of federal employees rely upon subjective assessments of performance by employees that may or may not be equipped to effectively evaluate agency performance. Critics charge that PART scores applied unevenly across programs and influenced by factors unrelated to performance such as partisanship or skill in the PART process itself (Gilmour 2006; Metzenbaum 2009; Moynihan 2006, 2008; Radin 2006; U.S. Government Accountability Office 2004, 2005, 2008).



Congress may also have damaged agencies' abilities to carry out important tasks. Among the possible mechanisms by which politicization hurts performance, three stand out in the case of political responsiveness. First, politicized agencies may add more *political review* to agency action. Additional political review can influence both the process and the objective quality of decisions. For example, presidents and political appointees may prefer to more frequently review agency decisions. The extra review for every agency decision can make more "political" agencies less nimble and less responsive. Giving a greater number of stakeholders access to agency decisions can generate internal agency friction and disagreement. Political review also provides opportunities for political actors to insert electoral calculations into agency policymaking. One motivation for the creation of insulated agencies is to limit politicians' ability to manipulate monetary policy, shade budget forecasts, bias regulatory policies, or otherwise direct agency decisions in ways that help party electoral fortunes but not social welfare (see, e.g., Cukierman, Webb, and Neyapti 1992; Krause, Lewis, and Douglas 2006; McCarty 2004). More political intervention into administration could influence both the process (e.g., speed of decisions) and content of decisions (e.g., more political considerations).

Second, increased political influence in agencies could influence internal agency resource allocation in ways that could *crowd out* other activities. For example, if political appointees prioritize policy work, like rulemaking, over non-mission tasks, like FOIA, the allocation of time, personnel and resources across tasks will be influenced in predictable ways. Agency leadership is less likely to assign the agency's best personnel to tasks that are not monitored by political officials or on the political agenda. Over time, the accumulation of choices to prioritize policy work shapes the internal labor market and the struggle for internal resources. Parts of the agency gain reputations as "turkey farms" and have a hard time recruiting and retaining the best

personnel from both inside and outside the agency. The poor reputations and second-best employees of the affected units often makes it hard for them to secure enough resources to effectively carry out their tasks. The resulting shift is task-focused. Once internal infrastructure develops around policy responsiveness over non-policy responsiveness, even elected officials will see less responsiveness to non-mission requests, like FOIA requests, in highly politicized agencies.

Third, more politicized agencies can suffer from *generic management problems*. Aggressive micromanagement can reduce incentives for agents to spend time and effort developing expertise and procedures that will benefit the agency and the public (see, e.g., Gailmard and Patty 2007; Lewis 2008; Stephenson 2011). High management turnover among executives, and lower levels of executive competence, can compound management problems. Politics trumps competence for promotion considerations in highly politicized agencies, where top management positions are reserved for co-partisans, and civil servant pay is limited by federal pay guidelines (Suleiman 2003). All of these features combine to make it hard for highly-politicized agencies to recruit and retain the most expert career employees. Generic management problems will result in reduced performance.

## **DATA AND ANALYTIC STRATEGY**

To evaluate the performance of agencies, we examine citizen requests for information. Specifically, we conduct an original study, sending two FOIA requests to 132 agencies and evaluating the quality of the responses. We analyze confirmation and response times and the quality of responses. We also incorporate data from Representative Darrell Issa (R-CA), who sent an almost-identical request to one of our requests a few months before our study.

An examination of the timing and quality of responses to identical FOIA requests provides a unique and comparable measure of agencies' performance. FOIA requests are not the most important task agencies perform but they are important and have the virtue of comparability across agencies and with data requested by Congress. FOIA has been instrumental in uncovering otherwise-hidden government information, like the Bush-era torture memos, documentation of the Iran-Contra affair, and the use of drones domestically. Response to such requests is governed by law that provides clear benchmarks for performance. Under FOIA any person can request any agency record not covered by one of nine exemptions.<sup>3</sup> Once the agency receives a request, FOIA requires that it confirm receipt within 10 business days and issue a determination within 20 business days. This determination can be to fill the request, fill it in part, decline the request, or indicate that the agency has no records responsive to the request. Agencies may ask for extensions to this time frame or stop working on a request until the requester provides fees or clarifying information. After the agency responds to the request, if the requestor disagrees with the determination, she may file an appeal with the agency. If the appeal is denied or not resolved to the requestor's satisfaction, her next remedy is in the courts.

On May 9, 2011, we submitted two distinct FOIA requests to 132 federal agencies, totaling 264 requests (132 of each type).<sup>4</sup> Our requests, sent by different people on the same day,

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<sup>3</sup> Exemptions cover personal information, trade secrets, privileged interagency communications, national security, law enforcement investigations, and other sensitive subjects (5 USC §552(b)).

<sup>4</sup> This is almost all federal agencies with a FOIA office (some agencies share a FOIA office with other agencies). We got our list from DOJ's list of FOIA contacts at agencies in 2011 (<http://www.foia.gov/report-makerequest.html>, last accessed August 15, 2015). We omitted

are located in Appendix B. Each agency received a baseline and sensitive request. The baseline request asks agencies to provide “the agency’s FOIA log from 2010 or equivalent listing the FOIA request number, name of requester, and a description of the records being requested.” The politically sensitive request asks for a list of FOIA requests from 2010 about which a political appointee “personally made an inquiry, personally reviewed, or personally had a hand in the disposition of the request”. Each request was mailed with a return address of a private citizen but the letter notes that the request for information is for educational purposes. We measure the time it took for the agency to confirm our request and respond to our request if they responded. We also note the number of exemptions claimed and the quality of the response for each request.

As Chair of the House Committee on Oversight and Government Reform, Rep. Issa emphasized his interest in ensuring agency responsiveness to FOIA requests. The most visible of his efforts in this regard was a request sent to 107 agencies about FOIA on January 25, 2011. In his request, Rep. Issa asked agencies for copies of agency FOIA logs from 2006 to 2011 and set a February 15, 2011 deadline. The content of his request is identical to the request for logs that we sent four months later, except that Rep. Issa requested significantly more data than we did. This means that by the time we sent our requests on May 9, 2011, Rep. Issa had already requested the same material from each agency (and most agencies had produced the material).<sup>5</sup>

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seven listed FOIA contacts, due to centralized FOIA processing or core mission overlap. See Appendix A.

<sup>5</sup> There is no statistically discernible difference between the politicization levels of the agencies Issa contacted and the larger set of agencies we contacted. When we estimate models controlling for Rep. Issa contact, the results are substantively similar and suggest agencies receiving Issa’s

The Committee recorded the responses to these requests and generously provided us the data. We analyze responsiveness to Rep. Issa separately from responsiveness to us.

Agencies confirm by letter or email that they have received a request, and they assign the request a unique case identifier. As past and present FOIA officers told us, after the request arrives to the FOIA office, the officer enters it into a spreadsheet and tracks the custody of the request as it travels between agency officials for review and response.<sup>6</sup>

We received the first agency confirmations and determinations May 12, 2011. The last data collected in response to these requests was received May 9, 2012, one year from the date we sent the letters. Out of 264 requests, we received *confirmation* of 219 (83%). The average time to confirmation, if we give all of the outstanding requests the maximum time of one year to respond, is 79 days. Out of 264 agencies, 195 *filled* the request (74%), and the average time was 122 days, giving non-responses the maximum time of one year to respond. In some cases, the confirmation and determination arrived in the same communication (i.e., we received your request and here is the determination). Appendix C provides the list of agencies that had not filled either request after one year.

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request were no more likely to respond to our request, no more likely to respond quickly, and no more likely to produce a high or low quality response.

<sup>6</sup> Because agencies track the chain of custody, the sensitive request should have required checking the list of people who handled each request against the list of appointees – not a difficult task. The chain of custody must be tracked in order to comply with legal requirements to establish a means for requestors to track the status of their request and provide an estimated date on which the agency will complete action on the request (5 USC §552(a)(7)(B)).

We coded poor responses where the response did not comply with the law or was not fully responsive. The poor responses asked for notarized proof of identity, which is not required by law, or sent the wrong information, including sending only a partial year's logs. We also coded as a poor response any request to pay fees. Since the persons sending the requests were educational requesters, we did not expect to be charged fees unless the response was over 100 pages. According to the statute, agencies are prohibited from charging educational requesters for document search and review but are allowed to charge for duplication beyond 100 pages. Fees cannot be charged to public requesters, if the response takes more than 20 days, unless the agency claims "exceptional" or "unusual" circumstances. All fees requested of us were either for responses that took longer than 20 days, or for agencies that provided fewer than 100 pages of documents. The only agency to claim exceptional circumstances did so for our request for FOIA logs. But the logs request did not present an exceptional circumstance, which is defined as a response that requires coordination across different components of the agency. By definition, the request for FOIA logs was handled entirely within the agency's FOIA office itself. Appendix D contains examples of agencies that provided both poor responses and whose responses exceeded statutory time limits.

As is expected and appropriate in a representative democracy, agencies were more responsive to Rep. Issa than to us. The average time to respond to Rep. Issa's request for information was 29 days (an average of 8 days later than the deadline he set), whereas the average time to respond to our FOIA log request was 87 days. Even though most of the agencies we contacted had already provided Rep. Issa with the information we requested, they responded to us (private citizens) more slowly.

*Measuring Politicization* To measure the degree of politicization, the most obvious agency feature is the percentage of agency employees that are appointed \*100.<sup>7</sup> Another way that agencies might be more responsive to political principals in their FOIA activities has to do with the location of the FOIA officer. The location of FOIA officers varies across agencies (e.g., general counsel's office, public affairs office, management directorate, etc.) and is unrelated to the number of appointees in an agency (Clark 1967; Wozencraft 1967; Gianella 1970). Including an indicator for location of the FOIA office in the executive secretariat (e.g., Office of the Secretary, Office of the Chairman) allows us to analyze whether proximity to political appointees influences FOIA office performance.<sup>8</sup> If it does, then mechanisms of delay might include micromanagement and other management problems or increased layers of review.

*Other variables.* We include other agency and FOIA-specific variables, in order to rule out competing explanations. Agencies can be loosely grouped into agencies in the Executive Office of the President (EOP; 0,1), executive departments (0,1), independent administrations (0,1), and independent commissions (0,1). Some agencies are also sub-components of larger agencies and others have no layers of bureaucracy above them (0,1). Agency location is also arguably a rough proxy for degree of presidential influence since agencies in the EOP and the executive departments are generally assumed to be most responsive to the president, although there are certainly exceptions, such as the Internal Revenue Service. Independent agencies are generally thought to be more responsive to Congress than EOP or executive departments. The

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<sup>7</sup> We use  $((\#Senate\ confirmed\ positions + \#non-career\ SES + \#Schedule\ C) / \#employees\ March\ 2011) * 100$ .

<sup>8</sup> Source: Leadership Directories, Inc., *Federal Yellow Book* ([www.leadershipdirectories.com](http://www.leadershipdirectories.com), last accessed August 13, 2015).

sheer size of the agency could explain responsiveness because large agencies are more likely to have dedicated FOIA officers and large staffs. We measure agency employment as of March 2011 (min = 10, max = 645,950, mean = 26,804). We use the natural log of employment because the variable is skewed and graphs of the bivariate relationship suggest a non-linear relationship. In order to avoid a situation in which responses to the sensitive request are delayed due to the number of appointees in the agency, we also include the number of appointees (i.e., more appointees means more potential matches between the chain-of-custody list on each request and the list of appointees in the agency who might have intervened in FOIA responses).<sup>9</sup>

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<sup>9</sup> One complication with these models is that the measure of politicization is mathematically related to the number of employees (our measure of agency size) and the number of appointees (our measure of how much work the politically sensitive request will be for the agency). We have also estimated all the models with the natural log of agency budgets, omitting the number of employees. We do not include these models as our main specification because we lose a large number of cases where budget data is not available, and moreover, the missing budget data correlates with politicization. Federal budgets do not match up neatly with organizational charts. For example, the Department of Defense often lists budgets by program (e.g., housing, personnel) more than by organizational unit, making it virtually impossible to get discrete figures for a large number of agencies. The results of these models are similar to the main results with a few notable exceptions. While the percentage of appointees is positively correlated with the time to confirm and respond to our requests, it is only significantly related when we take into account the request type. The politicization coefficient estimates for Rep. Issa's request are larger and estimated more precisely. The coefficient estimate on agency budgets is positive and significant



We also measure the number of FOIA requests received in FY2010 (min = 0, max = 130,098, mean = 6,790) since the number of requests could improve or hinder agency performance. An agency receiving a large number of requests has a lot of experience handling such requests but also a larger and probably more bureaucratized FOIA process.<sup>10</sup> Finally, we include an indicator for politically sensitive requests since such a request is less routine. In addition, we interact this variable with measures of politicization to determine whether more politicized agencies are particularly slow with more political requests. Table 1 summarizes these measures.

**Table 1. Data Sources and Summary Statistics**

Variable	Source	Obs	Min	Max	Mean	St. Dev
Confirm request	Audit	264	0	1	0.83	0.38
Respond request	Audit	264	0	1	0.74	0.44
Time to confirm	Audit	264	3	366	79	132
Time to respond	Audit	264	3	366	122	151
Exemptions claimed	Audit	195	0	3	0.30	0.61
Bad response	Audit	198	0	1	0.22	0.41
% Political Appointees	Plum Book, Fedscope	248	0	41	2.72	6.69
FOIA Office in Secretariat	Yellow Book	246	0	1	0.08	0.27
EOP	Yellow Book, Plum Book	264	0	1	0.04	0.19
Cabinet	Yellow Book, Plum Book	264	0	1	0.39	0.49
Ind. Agency	Yellow Book, Plum Book	264	0	1	0.24	0.43
Ind. Commission	Yellow Book, Plum Book	264	0	1	0.33	0.47
Bureau	Yellow Book, Plum Book	264	0	1	0.27	0.45
Agency Employment (3/11)	Fedscope	248	10	645,950	26,804	76,451

in each model, indicating that large agencies are slower to confirm and fill requests. The results are included in Appendix E.

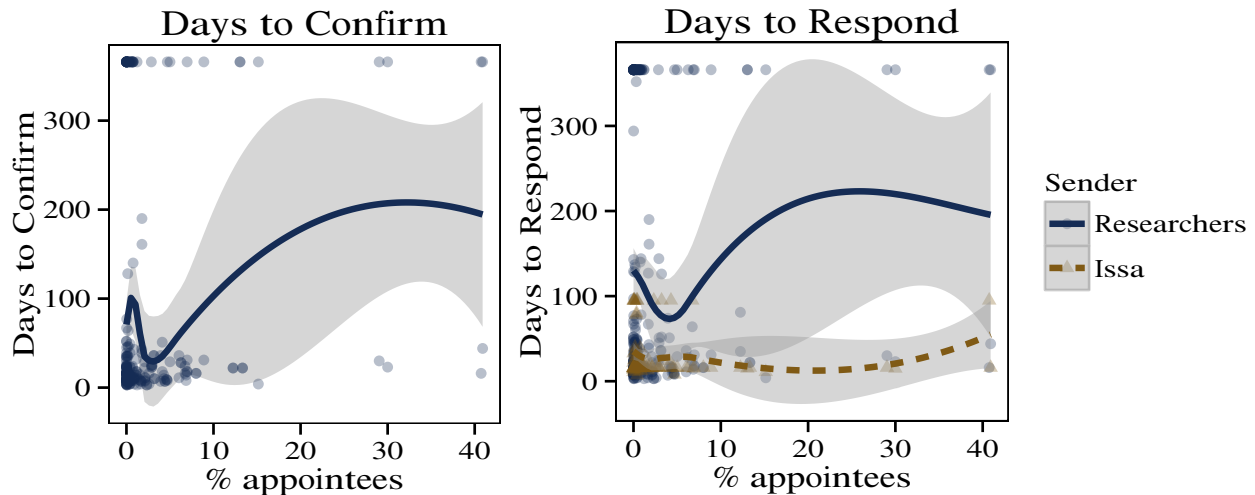
<sup>10</sup> For example, in a written response to Rep. Issa’s committee the Department of Defense wrote, “We are fully engaged in complying with your request. However, because the Department processed 74,790 in Fiscal Year 2010 alone, the volume of requested data makes it impossible to comply with your deadline of February 15, 2011.” Letter from Assistant Secretary of Defense to Rep. Darrell Issa, February 7, 2011 (available from the authors upon request).

# appointees	Plum Book, Fedscope	264	0	356	26.69	59.78
Agency with benefits prog.	Benefits.gov	264	0	1	0.20	0.40
FOIA Requests FY2010	<a href="http://www.foia.gov">www.foia.gov</a>	258	0	130,098	6,790	18,200
Politically sensitive request	Audit	264	0	1	0.50	0.50

**Table 1:** Summary statistics. Yellow Book = Federal Yellow Book; Plum Book = United States Government Policy and Supporting Positions, 2008 (“Plum Book”); “Fedscope” is the OPM’s Fedscope website (<http://www.fedscope.opm.gov/>, last accessed June 11, 2011). More information available in our codebook.

There is a significant amount of variation in non-response and response by agency. There are several things of note in the simple bivariate relationship between politicization and FOIA responses, as shown in Figure 1.

**Figure 1. Average Days to Confirm and Fill Requests by Percent Appointees**



**Figure 1.** Days to confirm and respond by percent appointees. Navy (solid) line and circles are Researcher data; brown (dashed) line and triangles are Rep. Issa data. Lines created with ggplot2’s loess smoother in R (span = 0.9).

First, most agencies have less than three percent of their total employment as political appointees. But some have much higher percentages (i.e., more politicization). Appointees comprise more than 5% of total employment in 24/132 agencies and more than 10% of total employment in 8/132 agencies. Agencies with the highest percentage of appointees were slightly slower to confirm and respond to our requests than agencies with lower percentages of appointees. For example, only 74% of agencies in the 90<sup>th</sup> percentile in percentage of appointees confirmed our request and they took an average of 30 days longer to confirm our requests. In

addition, only 64% of agencies in the 90<sup>th</sup> percentile in appointee percentage responded to our request at all and these agencies took, on average, 24 days longer to respond than the average agency. That said, the pattern seems to be that agencies with the lowest levels of politicization were not the fastest to respond. Rather, there might be a threshold of politicization that helps agencies respond more quickly. On the analysis of the days to respond in the right side panel of Figure 1, we observe that agencies responded to Rep. Issa far more quickly than they did to our public request.

When we examine the average confirmation and response times by location of the FOIA offices themselves a few things stand out. Interestingly, agencies with FOIA offices in the office of a politically appointed agency head (“secretariat”) were quicker to confirm receipt of our request by about 20 days but *slower* to respond to it by more than 40 days on average. They were slower to respond to Rep. Issa by about 20 days on average. There are a number of possible explanations for this pattern. FOIA offices in the secretariat receive more requests, on average, than FOIA offices outside of the secretariat (difference of 19,971,  $p = 0.000$ ), but they have much larger staffs than FOIA offices outside of the secretariat (averaging 68 more employees per FOIA office,  $p = 0.007$ ). So their overall workload is statistically indistinguishable from non-secretariat FOIA offices (147 requests per staff member vs. 136,  $p = 0.7$ ). The vast quantity of requests might mean that FOIA offices in the secretariat are best at automating confirmations, yet their location might mean that the offices have the most political review of requests.

Based on the simple, bivariate, descriptive data on FOIA responses, the most politicized agencies appear slower at responding to citizen requests for information than less politicized agencies. As we turn to statistical modeling, we bear in mind this basic relationship as well as the three mechanisms that might explain it: highly-politicized agencies might have more layers of

political review, allocate resources in a way that crowds out non-mission tasks, and experience generic management difficulties, more than less-politicized agencies.

*Models of FOIA Response* To account for potential confounders and right-censoring on the agencies that never responded we estimate Accelerated Failure Time (AFT) models with the following basic specification:

$$\ln(Y_a) = \alpha + \beta X_a + \phi p_a + \gamma R_a + \delta(R_a * p_a) + \varepsilon_i \quad (1)$$

for agency  $a$ , where  $Y_a$  is the number of days it takes an agency to fill a FOIA request,  $X_a$  includes agency-specific controls,  $p_a$  is agency politicization,  $R_a$  is request type (baseline or sensitive), and  $\varepsilon_i$  is the random error term modeled to have a density function  $f(\varepsilon)$ , in this case assumed to be log-gamma.<sup>11</sup> We report robust standard errors clustered on agency since each agency received two requests and those observations are non-independent.

## RESULTS

Do structural features that enhance political accountability hinder FOIA performance? In Table 2 we model the time it took for agencies to *confirm* receipt of our FOIA requests. In Table 3 we include models of the time it took for agencies to *fill* FOIA requests to us and respond to

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<sup>11</sup> We estimate a generalized gamma model, which allows for a flexible hazard rate and had the best fit according to ancillary parameter estimates and comparisons of non-nested models via the Akaike Information Criterion. We have also estimated basic Cox models as a robustness check and the results are similar with two notable exceptions. The results related to the percentage of appointees are larger and estimated precisely in all models, both models of responses to our requests and responses to Rep. Issa. The coefficient estimates on the location of the FOIA office, however, are smaller and less precise in the models of responses to our request, though not in models of responses to Rep. Issa. These models are available upon request from the authors.

Rep. Issa. A positive coefficient indicates that it took agencies a longer time to respond to the FOIA requests.<sup>12</sup> Each table includes basic specifications and specifications that interact politicization and the type of request (baseline v. sensitive) to test whether more politicized agencies are *particularly* slow at responding to politically sensitive requests (they were not). Overall, model estimates suggest that agencies with higher percentages of appointees and FOIA officers in agency secretariats (i.e., more politicized), took longer to confirm and fill our FOIA requests. More politicized agencies, however, were no more likely to produce a bad response if they responded. More politicized agencies, by some measures, also took longer to respond to requests from Rep. Issa.

*Confirmation of FOIA Requests* The results across models in Table 2 are pretty consistent. Agencies with higher percentages of appointees are estimated to take longer to respond. If we set variables at their means and generate predicted median times to confirmation we get a better picture of the effects.<sup>13</sup> The median time to confirm a FOIA request for an agency in the 25<sup>th</sup> percentile or below in appointee percentage (i.e., politicization) is estimated to be 17 days compared to 22 days for an agency above the 75<sup>th</sup> percentile. More generally, each percentage point increase in politicization is estimated to delay confirmation time by 2-3 percent.

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<sup>12</sup> We have also estimated logit models of whether or not the agency confirmed (0,1) or filled (0,1) our requests. These results confirm the results here (Appendix F).

<sup>13</sup> For substantive interpretation, we generate predicted median response times using the predict command in STATA 13.0 with all other values set at their means.

**Table 2. Models of FOIA Responses: Politicization and Time to Confirm FOIA Requests**

	Confirm Time. (S.E.)	Confirm Time. (S.E.)	Confirm Time. (S.E.)	Confirm Time. (S.E.)	Confirm Time. (S.E.)
<b>Politicization</b>					
% Appointees	0.02** (0.01)	0.03** (0.01)			0.02** (0.01)
% Appointees* Pol sensitive request		-0.03 (0.03)			
FOIA office in Secretariat (0,1)			0.69** (0.20)	0.82** (0.19)	0.67** (0.18)
FOIA office in Secretariat (0,1)*Pol sensitive request				-0.25 (0.19)	
<b>Agency Characteristics</b>					
EOP (0,1)	0.69** (0.20)	0.55** (0.18)	0.94** (0.28)	0.94** (0.28)	0.84** (0.29)
Executive Department (0,1)	-0.30 (0.35)	-0.30 (0.34)	-0.17 (0.32)	-0.22 (0.32)	-0.24 (0.33)
Ind. Admin. (0,1)	-0.31* (0.17)	-0.35* (0.19)	-0.23 (0.19)	-0.24 (0.19)	-0.15 (0.19)
Bureau (0,1)	0.35 (0.30)	0.34 (0.30)	0.41 (0.27)	0.43 (0.27)	0.45* (0.27)
ln(Agency Employment)	-0.05 (0.04)	-0.06 (0.05)	-0.05 (0.05)	-0.05 (0.05)	-0.02 (0.06)
Number of Agency Appointees	0.004** (0.001)	0.004** (0.001)	0.005** (0.001)	0.005** (0.001)	0.005** (0.001)
Agency has Benefits Prog. (0,1)	0.11 (0.18)	0.10 (0.18)	0.17 (0.20)	0.17 (0.20)	0.19 (0.20)
<b>FOIA Process</b>					
ln(# FOIA Requests FY2010)	0.05 (0.04)	0.04 (0.04)	-0.01 (0.04)	-0.01 (0.04)	-0.01 (0.04)
Politically Sensitive Request (0,1)	0.05 (0.06)	0.11* (0.06)	0.03 (0.06)	0.05 (0.06)	-0.00 (0.06)
Constant	2.09** (0.36)	2.11** (0.36)	2.25** (0.44)	2.22** (0.44)	1.99** (0.46)
$\kappa$	-2.31**	-2.46**	-2.68**	-2.69**	-2.54**
$\sigma$	0.79**	0.75**	0.71**	0.71**	0.73**
N	240	240	224	224	224
# Confirming	200	200	186	186	186
LR Test (10, 11, 10, 11, 11 df)	97.99**	183.98**	69.54**	71.81**	89.68**

Note: Model estimates from Accelerated Failure Time models with a generalized gamma distribution. Dependent variable is ln(days to confirmation of FOIA request). \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Robust standard errors, clustered at agency level, reported in parentheses. LR Test of nested models for Model 1, 2 and Model 3,4 (1 df) is 1.85, 1.23. Base category is an independent commission receiving a log request with a FOIA office outside the office of the secretariat.

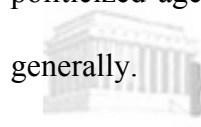
If politicized agencies perform less well at non-mission activities like FOIA, then agencies with FOIA housed in the office of the appointed agency head, such as the Office of the Secretary, Director, or Chair (all coded “Secretariat”), rather than management offices, general counsels’ offices, or public affairs offices, should respond more slowly than agencies outside of the Office of the Secretary. Indeed, in models with full controls, agencies with FOIA officers in the Office of the Secretary or Chair are estimated to respond more slowly. Agencies with the FOIA officer in the secretariat were estimated to take 34 days to confirm a request compared to 17 days (i.e., about twice as long) to confirm in agencies with FOIA officers in another part of the agency. This is important evidence that more politicized agencies or politicized FOIA processes lead to worse FOIA performance.

Among the other predictors of confirmation times, agencies in the Executive Office of the President (EOP) are estimated to be significantly slower in confirming FOIA requests than the base category, independent commissions. Median confirmation times were about 30 days slower for agencies in the EOP, even when controlling for the percentage of appointees. The slow confirmation times could stem from the fact that political oversight from the White House slows down response to records requests, or it could be that EOP agencies simply do not prioritize FOIA relative to other tasks. In the EOP (and other politicized agencies) other tasks are more pressing and FOIA could be crowded out.

Interestingly, the type of request (baseline or sensitive) did not influence confirmation times, even in the most politicized agencies. The fact that the most politicized agencies treat politically sensitive requests like other requests suggests that poor performance by politicized agencies has less to do with more layers of oversight or efforts to hide information.

*Filling FOIA Requests* Ultimately, what is important in FOIA response is how long it takes for agencies to fill or make a determination in a case. That is, how long did it take for the agency to give us our FOIA logs in various forms (i.e., full log for baseline request or log of appointee-relevant FOIA cases) or determine that our request produced no records? The results for *filling* FOIA requests mirror those for *confirming* requests except that the coefficients for FOIA officers in the secretariat are estimated less precisely. Substantively, agencies with high percentages of appointees are estimated to be slower in responding to FOIA requests. Median response times for agencies below the 25<sup>th</sup> percentile are estimated to be about 5 days slower than agencies above the 75<sup>th</sup> percentile, or 2-4 percent slower for each percentage point increase in politicization. Median response times are estimated to be twice as long for agencies with FOIA officers in the secretariat, although we cannot reject the null that FOIA office location has no effect.

As with confirmation times, agencies in the EOP (e.g., Council on Environmental Quality, Office of the U.S. Trade Representative) are estimated to be about 30 days slower in filling requests than the base category of agencies, independent commissions. Estimates also indicate that agencies took 6-7 days longer with the politically sensitive requests but we could not reject the null that more politicized agencies were no slower (or quicker) with the politicized requests. Again, politicization is correlated with poorer response times but not because politicized agencies are particularly concerned with politically sensitive requests. It does not appear that additional layers of political review or efforts to limit transparency by politicized agencies influenced performance. Rather, it seems more likely that in more politicized agencies other priorities crowd out concern for FOIA or hurt management more generally.





**Table 3. Models of FOIA Responses: Politicization and Time to Fill FOIA Requests**

	Time to fill (S.E.)	Time to fill (S.E.)	Time to fill (S.E.)	Time to fill (S.E.)	Time to fill (S.E.)	Rep. Issa Time to fill (S.E.)
<b>Politicization</b>						
% Appointees	0.03** (0.01)	0.04** (0.01)			0.02** (0.01)	0.01 (0.01)
% Appointees* Pol sensitive req.		-0.02 (0.02)				
FOIA office in Secretariat (0,1)			0.52 (0.35)	0.29 (0.42)	0.50 (0.34)	0.29** (0.10)
FOIA office in Secretariat (0,1)* Pol sensitive request				0.67 (0.51)		
<b>Agency Characteristics</b>						
EOP (0,1)	0.52** (0.23)	0.42* (0.22)	0.65** (0.24)	0.67** (0.24)	0.53** (0.24)	0.17 (0.17)
Executive Department (0,1)	0.95 (0.64)	0.99 (0.64)	0.76 (0.70)	0.66 (0.65)	0.72 (0.68)	0.09 (0.10)
Ind. Admin. (0,1)	-0.32 (0.22)	-0.32 (0.22)	-0.38 (0.24)	-0.38 (0.24)	-0.32 (0.23)	-0.03 (0.03)
Bureau (0,1)	-1.09* (0.57)	-1.13** (0.57)	-0.84 (0.67)	-0.74 (0.65)	-0.82 (0.65)	
ln(Agency Employment)	-0.01 (0.08)	-0.01 (0.08)	-0.07 (0.08)	-0.07 (0.08)	-0.04 (0.08)	0.05** (0.02)
Number of Agency Appointees	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)	0.00 (0.00)	
Agency has Benefits Prog. (0,1)	0.15 (0.27)	0.13 (0.26)	0.17 (0.29)	0.17 (0.29)	0.18 (0.27)	0.10 (0.07)
<b>FOIA Process</b>						
ln(# FOIA Requests FY2010)	0.08 (0.06)	0.07 (0.06)	0.07 (0.07)	0.07 (0.07)	0.07 (0.07)	0.01 (0.01)
Politically Sensitive Request (0,1)	0.17* (0.09)	0.22** (0.08)	0.20** (0.09)	0.16* (0.09)	0.19 (0.10)	
Constant	2.09** (0.38)	2.08** (0.38)	2.50** (0.33)	2.50** (0.33)	2.25** (0.39)	2.20** (0.06)
$\kappa$	-2.13**	-2.18**	-2.17**	-2.21**	-2.12**	-1.88**
$\sigma$	1.12**	1.10**	1.10**	1.08**	1.11**	0.38**
N	240	240	224	224	224	87
# Filling	181	181	169	169	169	75
LR Test (10, 11, 10, 11, 11, 4 df)	72.03**	93.69**	63.89**	87.40**	63.18**	

Note: Model estimates from Accelerated Failure Time models with a generalized gamma distribution. Dependent variable is ln(days to confirmation of FOIA request). \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Robust standard errors, clustered at agency level, reported in parentheses. LR Test of nested models for Model 1, 2 and Model 3,4 (1 df) is 0.65, 1.11. Base category is an independent commission receiving a log request with a FOIA office outside the office of the secretariat. The model of response to Rep. Issa omits variables for politically sensitive requests, appointees, and whether the agency was a bureau because all of Rep. Issa's requests were the same and they were, with one exception (Marine Corps), sent to non-bureaus.

*Responses to Rep. Issa's Request for FOIA Information* The patterns of response to Rep. Issa's request for information about agency FOIA processes are similar to those of agency responses to our FOIA requests. Agencies with higher percentages of appointees are estimated to be slower in responding to Rep. Issa, although the estimates are imprecise. The median response times for agencies below the 25<sup>th</sup> percentile in politicization are estimated to be 3 days quicker than agencies in the 75<sup>th</sup> percentile in politicization. Agencies with FOIA officers in the secretariat are significantly slower than agencies with FOIA officers in other parts of the agency. They are estimated to be about 9 days slower than other agencies. Beyond that, large agencies were slower to respond. The median response time for smaller agencies (i.e., bottom quartile) is estimated to be 17 days compared to 29 days for larger agencies (i.e., top quartile). Scholars usually think that more politicized agencies are designed to be more responsive to elected officials, but in this case more politicized agencies were actually less responsive to an elected official, albeit one in Congress. The fact that the same factors that predict performance in response to our FOIA request also predict performance in response to Rep. Issa's request suggests that politicization has a general effect on federal management performance.

In sum, not only did agency politicization reduce responsiveness to the public, *agency politicization reduced responsiveness to Rep. Issa*, although less robustly so. These findings present new evidence that agencies with the features of political accountability (i.e., higher percentages of appointees, FOIA located near the most political part of the agency) are less responsive to requests for information. Features of administrative agencies that enhance political accountability may decrease both direct democratic accountability and accountability to a political principal.

*Quality of Response* The time it takes an agency to respond to a FOIA request is only one measure of performance, although arguably the most important one. Table 4 includes other estimates of response quality, whether or not an agency claimed exemptions in filling the request or otherwise produced a poor response to the request. These estimates are based upon only cases where we actually received a response. This data restriction leads to potentially underestimating the effect of politicization since the worst performing cases (i.e., those that did not respond to us at all) are excluded from these analyses. The excluded cases are also those with higher levels of politicization since high politicization cases are among the least likely to respond in the first place. Nonetheless, it is worth looking at the quality of response of those for which we received responses.<sup>14</sup>

The results here are inconclusive, generally indicating that agencies designed to be more responsive to political principals are no more likely to claim exemptions or otherwise produce a poor response. We could not reject the null hypothesis that our measures of politicization had no influence on the number of exemptions claimed or the quality of the response if a response was sent. And depending on the measure used, politicization could create more (secretariat) or fewer

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<sup>14</sup> One difficulty in the analysis of response quality is that a large percentage of responses (69/87) to our sensitive request were “no records” responses, which are impossible to evaluate as low or high quality since it is hard to evaluate response quality when the agency has no records to send. In such cases agencies also do not claim exemptions because there are no records to redact. The analysis of the response quality, then, was largely an analysis of responses to our request for logs. This may explain the apparent decreased influence of the political factors. The most sensitive requests may take longer to fill, but there are fewer records evaluate for quality.

(% appointees) poor responses. Substantively, agencies with FOIA offices in the secretariat were estimated to be about 18 percentage points more likely to produce a poor response. Overall, however, the evidence is inconclusive.

**Table 4. Models of FOIA Response Quality**

	Exemptions Coef. (S.E.)	Poor Response Coef. (S.E.)
<i>Politicization</i>		
% Appointees	0.01 (0.03)	-0.05 (0.07)
FOIA office in Secretariat (0,1)	-1.06 (0.74)	0.94* (0.52)
<i>Agency Characteristics</i>		
EOP (0,1)	-0.02 (0.74)	--
Executive Department (0,1)	0.15 (0.58)	-1.95** (0.85)
Ind. Admin. (0,1)	0.01 (0.42)	-0.60 (0.86)
Bureau (0,1)	-1.32** (0.58)	1.67* (0.86)
ln(Agency Employment)	0.12 (0.11)	-0.23 (0.15)
Agency has Benefits Prog. (0,1)	-0.14 (0.47)	0.60 (0.71)
<i>FOIA Process</i>		
Ln (# FOIA Requests FY 2010)	0.07 (0.13)	0.30** (0.14)
Politically Sensitive Request (0,1)		-0.94** (0.46)
Constant	-1.81** (0.61)	-0.83 (0.76)
X <sup>2</sup> (9, 10 df)	16.78*	20.00
N	91/195	161/195

Note: \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Robust standard errors, clustered at agency level, reported in parentheses. Models of exemptions include only those cases where there was a response that provided records (i.e., excludes “no records” responses). There was only one case where a response to a politically sensitive request included exemptions and so that case is excluded. For Model 2, there were no cases where any of the five EOP agencies produced poor responses, so they perfectly predict the outcome and are excluded. The base category is an independent commission.

Other coefficient estimates suggest that overworked FOIA offices – in agencies with a large number of requests – are the most likely to produce a poor response. Increasing the number of requests to FOIA staff by one percent is estimated to increase the probability of a poor response by 5 percent. Interestingly, the responses to our (baseline) request for logs were significantly more likely to lead to poor responses, despite the fact that our sensitive request was less common, more complicated, and had not previously been provided to Rep. Issa. While the evidence suggests having FOIA offices close to political officials may lead to slower responses, it is also the case that the sheer size of the task and relative workload influence the *quality* of the response, even though it does not affect the speed of the response.

*Summary* In total, the analysis of timing with controls suggests a relationship between politicization and a lack of responsiveness to FOIA requests. Politicization is correlated with poor performance. Politicized agencies are slower to confirm or fill requests even when controlling for agency size and workload. There is little evidence in the full dataset, however, that these agencies are more likely to claim exemptions or respond poorly when they do respond. What evidence there is, suggests that agencies with heavy workloads are the most likely to produce a response that is less satisfactory to the requester (i.e., produce a poor quality response).

The facts that highly politicized agencies were no more aggressive at claiming exemptions or frustrating requesters with fees (Table 4), and politicized agencies were no slower or quicker with the politically sensitive requests help us to arbitrate among the three mechanisms highlighted earlier in the paper. Specifically, there is little evidence that politicized agencies intentionally hide information or subject it to more political review, thereby delaying FOIA response. Instead, difficulties in responding appear to be due to poor performance of the FOIA

offices, either because political actors focus more on other agency activities or because of poorer management agency-wide.<sup>15</sup>

## **DISCUSSION**

The results of our study indicate that there is such a thing as too much politicization in agency design. We show that design features intended to enhance political responsiveness, when used in too large of a dose, can have a counterproductive effect, slowing the agency's response to political principals in non-mission tasks. Similarly, agency politicization reduces responsiveness to the public, a less surprising, but still politically consequential result. These results can be added to a growing list of studies that suggest that too much politicization can be harmful for performance (Cohen 1998; Dunn 1997; Durant 1992; Heclo 1975, 1977; Kaufman 1965; National Commission on the Public Service 1989, 2003; Newland 1983; Rosen 1983).

We have no evidence that extra layers of review or other incentives for delay on political requests are the cause of the lack of responsiveness. Our design allowed us to examine additional delay for politically sensitive requests, which are exactly the kind of request we would expect the extra layers of review to affect. But the sensitive request that we sent did not take longer. Similarly, we do not observe more politicized agencies claiming more exemptions to our requests. One likely explanation for the relationship we see between politicization and performance is that increased attention to politically relevant tasks crowds out attention to less salient activities such as FOIA. While FOIA-office workload was not a predictor of the likelihood of responding or length of time to response, agencies with higher numbers of requests, regardless of the size of their FOIA offices, were more likely to produce poor responses.

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<sup>15</sup> We have estimated simple models looking for a correlation between the number of programs and response time and quality, and the results are inconclusive and sensitive to specification.

More generally, based on the nature of some of the slow responses even to confirm requests, it seems that general management challenges could impede the FOIA process (Gilmour and Lewis 2006; Hecllo 1977; Lewis 2008). The delays in responding to Rep. Issa's requests, while less pronounced than delays to our requests, followed a pattern similar to ours, indicating that from the standpoint of political responsiveness, politicized agencies were bad at both tasks. These findings are consistent with previous work demonstrating that politicized management teams can hurt program and agency performance (Gailmard and Patty 2007; Gilmour and Lewis 2006; Lewis 2008). Politicization leads to higher turnover, systematic differences in background qualifications, and difficulties in the recruitment and retention of the best and the brightest. These management difficulties influence a whole range of agency activities including, but not limited to, FOIA.

We should be clear. Our research design involves tradeoffs and our argument is limited. These data have the virtues of replicating the kind of experience normal FOIA users have, and they do not rely on agency self-reports. In addition, they provide a wonderful and unique opportunity to compare the citizen request to the request that Rep. Issa made. The data have the advantage of being 264 draws from agency response times but the disadvantage of only being two draws from each agency's distribution of agency confirmation or response times. In addition, politicization is not randomly distributed among agencies. It is possible that politicization is correlated with omitted agency features correlated with both politicization and performance. If our efforts at identifying the appropriate agency controls is ineffective, our coefficient estimates on the percentage of appointees or FOIA office location could be biased. We have tried to identify the relevant covariate controls but these data have the same weakness as most cross-sectional studies.

We further recognize that the task of providing information is only one type of agency role, fitting in a broader context of agency activities, primary of which are rulemaking, adjudication, enforcement and policy implementation. Our findings show that there is variation in direct public accountability, and it should not be ignored, or assumed not to transfer to the agency roles more central to their core tasks., If an agency is unaccountable in the role that is most directly associated with citizen contact, might it also be unaccountable in rulemaking or adjudication? The possibility remains, and it is highlighted by our findings.

## **CONCLUSION**

This paper evaluated the relationship between political control and bureaucratic performance using requests for information about the Freedom of Information Act (FOIA), partly through the FOIA process itself. It finds a relationship between politicization and a lack of responsiveness to FOIA requests. It provides important new evidence to help arbitrate an ongoing debate about the effects of politicization on agency performance.

The implications of the findings go well beyond their contribution to the literature on politicization's and performance. While in many ways a mundane task for agency employees, the FOIA process is crucial to agency accountability. It has recently become the target of oversight, not only from Rep. Issa, but from the White House as well. The White House Open Government Initiative has a specific focus on information availability directly to the public. From creating centralized government websites that ease information searches to de-classifying documents and ramping up FOIA responsiveness, the Obama Administration reports that it has made progress in opening up government and encouraging agencies to be more directly responsive to citizens. While increased transparency is generally popular with the electorate, the President faces an uphill battle to improve the FOIA process, as this study shows. The structures that any president



relies upon for political responsiveness – padding agencies with appointees, and locating even non-mission agency tasks in the Secretariat – correlate with less openness in government and weaker FOIA responsiveness in particular.

Bureaucratic accountability – bureaucrats’ obligation to answer for their actions – is a longstanding concern in democratic politics. It has become an increasingly important concern in the post-war and post-Watergate era, as the public has demanded transparency in an effort to facilitate accountability. One important obligation of government agencies to respond directly to the public is enshrined in the Freedom of Information Act (FOIA). The transparency provided by FOIA allows the public to hold agencies accountable. FOIA is a potentially powerful tool, made more powerful when agencies respond to FOIA requests both quickly and completely. Yet some features of agency design might impede agencies’ ability or willingness to respond to FOIA and other “non-mission” requests in a timely manner. FOIA requests help private citizens, the press and civil society groups examine government actions, an essential component of electoral accountability in a free society.

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## Appendix

### Appendix A. Agencies Contacted

Below is a list of all the agencies we included in our initial list, which we obtained from the Department of Justice. Agencies with a double asterisk (\*\*) were excluded from all requests. We excluded entities lump FOIA servicing together, like the combatant commands in the Department of Defense, [] and FOIA Request Service Center. We also omit offices within agencies that DOJ included separately on the list (like the DoD IG), since their tasks are almost all described as non-mission. Finally, we also excluded the Federal Open Market Committee and US-VISIT, since their mission tasks are so closely tied to entities we were already contacting (Federal Reserve and CBP).

Department of Agriculture	United States Central Command FOIA Requester Service Center**
Department of Commerce	United States European Command FOIA Requester Service Center**
National Oceanic and Atmospheric Administration	United States Joint Forces Command FOIA Requester Service Center**
Department of Defense	United States Northern Command FOIA Requester Service Center**
Air Force	United States Pacific Command FOIA Requester Service Center**
Army	United States Special Operations Command FOIA Requester Service Center**
Defense Commissary Agency (DeCA)	United States Southern Command FOIA Requester Service Center**
Defense Contract Audit Agency	United States Strategic Command FOIA Requester Service Center**
Defense Contract Management Agency	United States Transportation Command FOIA Requester Service Center**
Defense Finance and Accounting Service	Department of Education
Defense Information Systems Agency	Department of Energy
Defense Intelligence Agency	Department of Health and Human Services
Defense Logistics Agency	Centers for Medicare & Medicaid Services
Defense Security Service	Food and Drug Administration
Defense Technical Information Center	National Institutes of Health
Defense Threat Reduction Agency	Public Health Service
Department of Defense Education Activity	Department of Homeland Security
Marine Corps	Bureau of Customs and Border Protection
Missile Defense Agency	United States Citizenship and Immigration Services
National Geospatial-Intelligence Agency	United States Coast Guard
National Guard Bureau/JA-FOIA	Federal Emergency Management Agency
National Reconnaissance Office	Federal Law Enforcement Training Center
National Security Agency	
Navy	
Department of Defense Office of the Inspector General**	
Office of the Secretary of Defense and Joint Staff	
TRICARE Management Activity	
United States Africa Command FOIA Requester Service Center**	

United States Immigration and Customs Enforcement	Federal Communications Commission
DHS Office of Inspector General**	Federal Deposit Insurance Corporation
United States Secret Service	Federal Election Commission
Transportation Security Administration	Federal Energy Regulatory Commission
US-VISIT**	Federal Financial Institutions Examination Council
Department of Housing and Urban Development	Federal Housing Finance Agency
Department of the Interior	Federal Labor Relations Authority
Department of Justice	Federal Maritime Commission
Department of Labor	Federal Mediation and Conciliation Service
Department of State	Federal Mine Safety and Health Review Commission
Department of Transportation	Federal Open Market Committee**
Federal Aviation Administration	Federal Reserve System
Department of the Treasury	Federal Retirement Thrift Investment Board
Comptroller of the Currency	Federal Trade Commission
Internal Revenue Service	General Services Administration
Office of Thrift Supervision	Institute of Museum and Library Services
Department of Veterans Affairs	Inter-American Foundation
Agency for International Development	Legal Services Corporation
American Battle Monuments Commission	Merit Systems Protection Board
Amtrak (National Railroad Passenger Corporation)	Millennium Challenge Corporation
Broadcasting Board of Governors	National Aeronautics and Space Administration
Central Intelligence Agency	National Archives and Records Administration
Chemical Safety and Hazard Investigation Board	National Capital Planning Commission
Commission on Civil Rights	National Credit Union Administration
Committee for Purchase from People who Are Blind or Severely Disabled	National Endowment for the Arts
Commodity Futures Trading Commission	National Endowment for the Humanities
Consumer Product Safety Commission	National Indian Gaming Commission
Corporation for National Service	National Labor Relations Board
Court Services and Offender Supervision Agency	National Mediation Board
Defense Nuclear Facilities Safety Board	National Science Foundation
Environmental Protection Agency	National Transportation Safety Board
Equal Employment Opportunity Commission	Nuclear Regulatory Commission
Council on Environmental Quality	Occupational Safety and Health Review Commission
Office of Management and Budget	Office of the Director of National Intelligence
Office of National Drug Control Policy	Office of Government Ethics
Office of Science and Technology Policy	Office of Navajo and Hopi Indian Relocation
Office of the United States Trade Representative	Office of Personnel Management
Export-Import Bank	Office of Special Counsel
Farm Credit Administration	Overseas Private Investment Corporation
Farm Credit System Insurance Corporation	Peace Corps
	Pension Benefit Guaranty Corporation

Postal Regulatory Commission  
Railroad Retirement Board  
Securities and Exchange Commission  
Selective Service System  
Small Business Administration  
Social Security Administration  
Special Inspector General for Iraq  
Reconstruction  
Surface Transportation Board  
Tennessee Valley Authority  
United States African Development Foundation  
United States Copyright Office  
United States International Boundary and Water  
Commission  
United States International Trade Commission  
United States Postal Service  
United States Trade and Development Agency\*



## Appendix B. Form of FOIA Requests Sent to Federal Agencies, May 9, 2010

[BASELINE]

*To Whom It May Concern:*

*Under the Freedom of Information Act, 5 U.S.C. § 552, I am requesting copies of the following sets of records from the Department of Agriculture:*

- *The agency's FOIA log from 2010 or equivalent listing the FOIA request number, name of requester, and a description of the records being requested.*

*If there are any fees for searching or copying the records, please let me know before you fill my request. Or, please supply the records without informing me of the cost if the fees do not exceed \$200, which I agree to pay. This request is for educational purposes.*

*If you deny all or any part of this request, please cite each specific exemption you think justifies your withholding of information. Notify me of appeal procedures available under the law.*

*If you have any questions about handling this request, you may reach me by email at xxxx, or by telephone at xxxx.*

*Sincerely,*

xxxx  
xxxx  
xxxx

[POLITICALLY SENSITIVE]

*To Whom It May Concern:*

*Under the Freedom of Information Act, 5 U.S.C. § 552, I am requesting copies of the below-listed sets of records from Department of Agriculture. If there are any fees for searching or copying the records, please let me know before you fill my request. Or, please supply the records without informing me of the cost if the fees do not exceed \$200, which I agree to pay. This request is for educational purposes.*

*If you deny all or any part of this request, please cite each specific exemption you think justifies your withholding of information. Notify me of appeal procedures available under the law.*

*If you have any questions about handling this request, you may telephone me at xxxx. I can also be reached via email at xxxx.*

*Sincerely,*

xxxx  
xxxx  
xxxx

**Requested Records:** *A list of the FOIA requests from 2010 about which a political appointee (persons appointed under schedule C, a non-career member of the Senior Executive Service, or Senate-confirmed appointee) personally made an inquiry, personally reviewed, or personally had a hand in the disposition of the request*

**Appendix C. Agencies that Never Responded to Either Baseline or Sensitive Request**

<b>Agency</b>	<b>Agency Confirmed Receipt of Our Request</b>	<b>Executive Department</b>	<b>Total Appointees</b>
Bureau of Customs and Border Protection (DHS)	NO	YES	9
Court Services and Offender Supervision Agency	NO	NO	0
Department of Energy	NO	YES	116
Department of Justice	NO	YES	346
Federal Energy Regulatory Commission (DOE)	NO	YES/ NO	9
Federal Housing Finance Agency	NO	NO	4
Federal Maritime Commission	YES	NO	8
Federal Mine Safety and Health Review Commission	NO	NO	9
Missile Defense Agency (DOD)	NO	YES	0
National Geospatial-Intelligence Agency (DOD)	YES	YES	*
Office of Personnel Management	YES	NO	29
Public Health Service (HHS)	YES	YES	*
Transportation Security Administration (DHS)	YES	YES	1

Note: While the Federal Energy Regulatory Commission is statutorily located in the Department of Energy, its fixed terms and for cause removal protections means it operates more like an independent agency.

#### **Appendix D. Examples of Agencies that Produced Poor Responses and Exceed Statutory Time to Respond**

<b>Agency</b>	<b>Request Type</b>	<b>Days to Respond</b>	<b>Description of Response</b>
Federal Maritime Commission	Baseline	365	Called and said needed to talk about all requests, asked us not to call back because she would be out of the office, refused to say when she was returning.
U.S. Citizenship & Immigration Services	Sensitive	365	Asked for proof of identification.
Centers for Medicare & Medicaid Services	Baseline	365	Only response was letter suggesting it was a lot of work.
Commodity Futures Trading Commission	Sensitive	190	Multiple duplicate responses mailed
National Reconnaissance Office	Baseline	81	Only part of 2010, fees charged
Comptroller of the Currency	Baseline	77	Fiscal year rather than calendar year.
Agency for International Development	Baseline	73	Fiscal year rather than calendar year.
Corporation for National Service	Baseline	51	Only part of 2010 included in response.
Pension Benefit Guaranty Corporation	Baseline	49	Fiscal year rather than calendar year. Nice CD and Fed Ex Mailer
Equal Employment Opportunity Commission	Baseline	48	Summary statistics only.

Note: If we assume it took our letters 2 weeks to arrive at the agency FOIA office, 20 working days would charitably be June 20, 2011, or 42 calendar days after our request. This table includes every poor responder that took longer than 42 calendar days. It excludes those agencies that never responded. This table also excludes agencies that charged us fees. Every agency is required to keep a FOIA log and agencies are obligated to fill educational requests without fees unless requests involve more than 100 pages. Two agencies, the Federal Trade Commission and National Labor Relations Board charged us fees for fewer than 100 pages of material.

**Appendix E.1. Models of FOIA Confirmations: Politicization and Time to Confirm FOIA Requests, using Budget Data instead of Employment Data**

	Confirm Time. (S.E.)	Confirm Time. (S.E.)	Confirm Time. (S.E.)	Confirm Time. (S.E.)	Confirm Time. (S.E.)
<b><i>Politicization</i></b>					
% Appointees	0.02 (0.22)	0.12** (0.01)			0.00 (0.03)
% Appointees* Pol sensitive request		-0.12** (0.02)			
FOIA office in Secretariat (0,1)			0.66** (0.15)	0.72** (0.15)	0.66** (0.17)
FOIA office in Secretariat (0,1)*Pol sensitive request				-0.13 (0.18)	
<b><i>Agency Characteristics</i></b>					
EOP (0,1)	0.54** (0.22)	0.11 (0.18)	0.60** (0.25)	0.60** (0.25)	0.62** (0.29)
Executive Department (0,1)	-0.54** (0.28*)	-0.52** (0.25)	-0.38 (0.28)	-0.41 (0.29)	-0.36 (0.28)
Ind. Admin. (0,1)	-0.21 (0.16)	-0.25* (0.15)	-0.14 (0.15)	-0.15 (0.15)	-0.15 (0.16)
Bureau (0,1)	0.40** (0.01)	0.40* (0.22)	0.40* (0.23)	0.42 (0.23)	0.40* (0.22)
ln(2010 Budget Outlays)	0.04** (0.00)	0.04** (0.00)	0.05** (0.02)	0.05** (0.02)	0.05** (0.02)
Number of Agency Appointees	0.00** (0.00)	0.00** (0.00)	0.00** (0.00)	0.00** (0.00)	0.00** (0.00)
Agency has Benefits Prog. (0,1)	0.12 (0.16)	0.13 (0.16)	0.14 (0.17)	0.14 (0.17)	0.14 (0.17)
<b><i>FOIA Process</i></b>					
ln(# FOIA Requests FY2010)	-0.00 (0.40)	0.13 (0.03)	-0.06** (0.03)	-0.06** (0.03)	-0.06** (0.3)
Politically Sensitive Request (0,1)	-0.00 (0.08)	0.15** (0.07)	-0.09 (0.07)	-0.07 (0.08)	-0.07 (0.07)
Constant	1.26** (0.24)	1.14** (0.00)	1.33** (0.29)	1.32** (0.29)	1.41** (0.26)
$\kappa$	-2.26**	-2.44**	-2.47**	-2.46**	-2.47**
$\sigma$	0.74**	0.69**	0.68**	0.68**	0.68**
N	204	204	194	194	188
# Confirming	174	174	165	165	160
LR Test (10, 11, 10, 11, 11 df)	108.84**	196.76	115.58**	122.43**	141.71**

Note: Model estimates from Accelerated Failure Time models with a generalized gamma distribution. Dependent variable is ln(days to confirmation of FOIA request). \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Robust standard errors, clustered at agency level, reported in parentheses. LR Test of nested models for Model 1, 2 and Model 3,4 (1 df) is 9.94\*\*, 0.14. Base category is an independent commission receiving a log request with a FOIA office outside the office of the secretariat.

**Appendix E.2. Models of FOIA Responses: Politicization and Time to Fill FOIA Requests,  
using Budget Data instead of Employment Data**

	Time to fill (S.E.)	Time to fill (S.E.)	Time to fill (S.E.)	Time to fill (S.E.)	Time to fill (S.E.)	Rep. Issa Time to fill (S.E.)
<b><i>Politicization</i></b>						
% Appointees	0.00 (0.03)	0.11** (0.02)			0.00 (0.03)	0.02** (0.00)
% Appointees* Pol sensitive request		-0.12** (0.03)				
FOIA office in Secretariat (0,1)			0.49 (0.31)	0.26 (0.40)	0.48 (0.30)	0.31** (0.09)
FOIA office in Secretariat (0,1)*Pol sensitive request				0.67 (0.52)		
<b><i>Agency Characteristics</i></b>						
EOP (0,1)	0.14 (0.32)	-0.14 (0.31)	0.21 (0.33)	0.24 (0.32)	0.13 (0.34)	0.23** (0.06)
Executive Department (0,1)	0.94 (0.50)	1.15** (0.50)	0.71 (0.54)	0.58 (0.50)	0.70 (0.53)	0.14** (0.07)
Ind. Admin. (0,1)	-0.43* (0.23)	-0.42* (0.22)	-0.34 (0.23)	-0.33 (0.22)	-0.40* (0.24)	-0.05 (0.03)
Bureau (0,1)	-1.45* (0.50)	-1.55** (0.46)	-1.14** (0.53)	-1.00** (0.51)	-1.19** (0.53)	
ln(2010 Budget Outlays)	0.07** (0.02)	0.06** (0.02)	0.07** (0.02)	0.07** (0.02)	0.07** (0.02)	0.02* (0.01)
Number of Agency Appointees	-0.00 (0.28)	-0.00 (0.00)	-0.00 (0.00)	-0.00 (0.00)	-0.00 (0.00)	-0.00 (0.00)
Agency has Benefits Prog. (0,1)	-0.02 (0.28)	0.02 (0.25)	0.05 (0.27)	0.05 (0.26)	0.02 (0.12)	0.09 (0.07)
<b><i>FOIA Process</i></b>						
ln(# FOIA Requests FY2010)	0.03 (0.05)	0.02 (0.05)	0.00 (0.04)	0.01 (0.04)	0.01 (0.05)	0.05** (0.01)
Politically Sensitive Request (0,1)	0.12 (0.11)	0.31** (0.10)	0.08 (0.12)	0.03 (0.12)	0.13 (0.12)	
Constant	1.27** (0.34)	1.15** (0.35)	1.20** (0.37)	1.21** (0.36)	1.28** (0.37)	2.01** (0.13)
$\kappa$	-2.16**	-2.27**	-2.18**	-2.23**	-2.12**	-1.89**
$\sigma$	1.07**	1.01**	1.04**	1.02**	1.06**	0.38**
N	204	204	194	194	188	74
# Responding	155	155	148	148	143	64
LR Test (10, 11, 10, 11, 11, 5 df)	99.01**	139.07**	83.87**	119.40**	87.19**	

Note: Model estimates from Accelerated Failure Time models with a generalized gamma distribution. Dependent variable is ln(days to confirmation of FOIA request). \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Robust standard errors, clustered at agency level, reported in parentheses. LR Test of nested models for Model 1, 2 and Model 3,4 (1 df) is 6.05\*\*, 1.52. Base category is an independent commission receiving a log request with a FOIA office outside the office of the secretariat.



## Appendix F.1: Logit Analysis on Confirmation

	Confirmed Coef. (S.E.)	Confirmed Coef. (S.E.)	Confirmed Coef. (S.E.)	Confirmed Coef. (S.E.)
<b><i>Politicization</i></b>				
% Appointees	-0.08** (0.03)	-0.07** (0.25)		-0.09** (0.03)
% Appointees* Pol sensitive request		-0.03 (0.07)		
FOIA office in Secretariat (0,1)			1.58 (1.00)	1.58 (1.00)
<b><i>Agency Characteristics</i></b>				
EOP (0,1)	1.26 (0.77)	1.32 (0.83)	0.05 (0.73)	1.46* (0.81)
Executive Department (0,1)	-1.07 (0.96)	-1.08 (0.95)	-1.04 (0.96)	-0.91 (0.98)
Ind. Admin. (0,1)	0.01 (0.55)	-0.02 (0.57)	0.20 (0.53)	0.18 (0.56)
Bureau (0,1)	0.85 (0.97)	0.85 (0.96)	1.07 (0.97)	1.05 (0.99)
ln(Agency Employment)	0.04 (0.11)	0.04 (0.11)	0.17 (0.14)	-0.01 (0.14)
Number of Agency Appointees	-0.00 (0.01)	-0.00 (0.01)	-0.00 (0.01)	-0.00 (0.01)
Agency has Benefits Prog. (0,1)	1.27** (0.59)	1.29** (0.60)	1.15 (0.71)	1.37** (0.60)
<b><i>FOIA Process</i></b>				
ln(# FOIA Requests FY2010)	-0.09 (0.12)	0.04 (0.11)	-0.16 (0.14)	-0.13 (0.14)
Politically Sensitive Request (0,1)	-0.66 (0.34)*	-0.53 (0.36)	-0.54 (0.33)	-0.56 (0.35)
Constant	2.52** (0.70)	2.49** (0.70)	1.51** (0.72)	2.77**
N	240	240	224	224
LR Test (10, 11, 10, 11 df)	17.07*	20.97**	11.35	19.98**

Note: \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Logit regressions on confirm (0,1). Robust standard errors, clustered at agency level, reported in parentheses. There was only 1 case where a FOIA office in the secretariat failed to confirm a sensitive request, and so that variable is excluded.

## Appendix F.2: Logit Analysis on Response

	Responded Coef. (S.E.)	Responded Coef. (S.E.)	Responded Coef. (S.E.)	Responded Coef. (S.E.)	Responded Coef. (S.E.)
<b><i>Politicization</i></b>					
% Appointees	-0.08** (0.02)	-0.07** (0.03)			-0.08** (0.02)
% Appointees* Pol sensitive request		-0.02 (0.06)			
FOIA office in Secretariat (0,1)			-0.23 (0.62)	-0.05 (0.91)	-0.27 (0.71)
FOIA office in Secretariat (0,1) * Pol sensitive request				-0.32 (1.07)	
<b><i>Agency Characteristics</i></b>					
EOP (0,1)	1.51** (0.66)	1.57** (0.73)	0.27 (0.76)	0.27 (0.76)	1.54** (0.67)
Executive Department (0,1)	-0.28 (0.94)	-0.28 (0.93)	-0.33 (0.96)	-0.33 (0.96)	-0.23 (0.98)
Ind. Admin. (0,1)	0.40 (0.50)	0.39 (0.51)	0.44 (0.47)	0.44 (0.47)	0.40 (0.50)
Bureau (0,1)	0.41 (0.92)	0.41 (0.92)	0.34 (0.93)	0.34 (0.93)	0.31 (0.94)
ln(Agency Employment)	-0.12 (0.10)	-0.13 (0.11)	0.24 (0.13)	0.02 (0.13)	-0.13 (0.14)
Number of Agency Appointees	0.00 (0.01)	0.00 (0.01)	-0.00 (0.01)	-0.00 (0.01)	-0.00 (0.01)
Agency has Benefits Prog. (0,1)	0.57 (0.57)	0.57 (0.57)	0.43 (0.59)	0.42 (0.59)	0.59 (0.57)
<b><i>FOIA Process</i></b>					
ln(# FOIA Requests FY2010)	-0.07 (0.11)	-0.07 (0.11)	-0.08 (0.12)	-0.08 (0.12)	-0.06 (0.13)
Politically Sensitive Request (0,1)	-0.93** (0.31)	-0.86** (0.33)	-0.75 (0.30)	-0.72 (0.31)	-0.78** (0.31)
Constant	3.00** (0.66)	2.97** (0.65)	1.75** (0.62)	1.74** (0.62)	2.89** (0.71)
N	240	240	224	224	224
LR Test (10, 11, 10, 10, 11 df)	18.89**	20.85**	10.43	10.56	17.34*

Note: \*\*significant at the 0.05 level; \*significant at the 0.10 level in two-tailed tests. Logit regressions on respond (0,1). Robust standard errors, clustered at agency level, reported in parentheses.