



VIA FAX
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September 23, 2015

Chief FOIA Officer
Office of Freedom of Information
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Dear FOIA officer:

This letter constitutes a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and is submitted on behalf of the Electronic Privacy Information Center (“EPIC”) to the Defense Advanced Research Projects Agency (“DARPA”).

EPIC seeks documents concerning DARPA’s Brandeis Program, a program intended to “research and develop tools for online privacy.”¹

Documents Requested

1. All contracts, statements of work, and technical specifications related to the Brandeis Program, including but not limited to contracts, statements of work, and technical specifications related to contract number DARPA-BAA-15-29;
2. All policies and procedures for the collection, storage, analysis, use, sharing, retention, or deletion of data obtained through the Brandeis Program;
3. All records concerning the sharing of Brandeis Program Technical Area 1, Technical Area 2, Technical Area 3, and Technical Area 4 data with other agencies, governments, non-governmental entities, or individuals.
4. All communications by DARPA regarding the Brandeis Program, including but not limited to white papers, proposals, e-mails, and PowerPoint presentations.

¹ DARPA “Brandeis” Program Aims to Ensure Online Privacy Through Technology, (Mar. 3, 2015) <http://www.darpa.mil/news-events/2015-03-11>

Background

DARPA is a component agency of the Department of Defense that was created for the purpose of “cultivating breakthrough technologies for national security.”² Most recently, DARPA seeks to fulfill this objective by through Brandeis, a program intended to build information systems to enable U.S. government agencies, as well as individuals and enterprises to keep confidential information private.³

According to the agency, “safe and effective sharing of information (especially information related to cyber threats) to increase the nation’s ability to protect itself and to thwart any adversary’s ability to shut down networks, steal trade secrets, or otherwise invade privacy.”⁴ Through the Brandeis Program, DARPA seeks to develop a technical means for privacy in order to achieve safe and effective information share.⁵ According to the agency, the program is focused on protecting the information that is disclosed to third parties, rather than the data that is generally collected through user interaction with networks and systems.⁶

According to the agency, Brandeis is divided into four technical areas (“TA”):

- TA1. Privacy-preserving Computation
- TA2. Human Data Interaction (HDI)
- TA3. Experimental Systems
- TA4. Metrics and Analysis⁷

DARPA recently awarded a contractor, SRI International (“SRI”), a contract to implement some or all of the Brandeis Program.⁸ SRI is a nonprofit research center focused on development of new technical innovations for government and industry.⁹ It is currently unknown which of the four TAs SRI will be responsible for within Brandeis, or the details of its contract with DARPA. The lack of information regarding SRI’s proposals and contract with DARPA, as well as the technical specifications and any statements of work, raise serious questions as to how Brandeis will be carried out and implemented.

² Where the Future Becomes Now <http://www.darpa.mil/about-us/timeline/where-the-future-becomes-now>

³ Federal Business Opportunities, DARPA-BAA-15-29: Brandeis (Mar. 11, 2015) <https://www.fbo.gov/index?s=opportunity&mode=form&id=806e298e3bda3a09fd13d4d2d4d13afe&tab=core&cvew=0>

⁴ *Id.*

⁵ *DARPA to target cyber privacy protection tech*, Network World (Mar. 3, 2015) <http://www.networkworld.com/article/2892447/security0/darpa-to-target-cyber-privacy-protection-tech.html>

⁶ *Broad Agency Announcement*, Brandeis DARPA-BAA-15-29 (Mar. 11, 2015). <https://www.fbo.gov/index?tab=documents&tabmode=form&subtab=core&tabid=6a7e8d132703da1f38070ab1137f2891> at 7.

⁷ *Id.* at 7.

⁸ *DARPA hires SRI to spearhead data privacy program*, Defense Systems (Aug. 25, 2015) <https://defensesystems.com/articles/2015/08/25/darpa-sri-brandeis-data-privacy-contract.aspx>

⁹ SRI International <http://www.sri.com/about>

Request for Expedited Processing

This request warrants expedited processing because (1) it is made by "a person primarily engaged in disseminating information" and (2) it pertains to a matter about which there is an "urgency to inform the public about an actual or alleged federal government activity."¹⁰

First, EPIC is "primarily engaged in disseminating information."¹¹

There is an "urgency to inform the public" about the contents of the Brandeis Program because its self-proclaimed goal of keeping personal information private necessarily affects the individuals who that personal information belongs to.

The 2015 Pew Research survey on privacy clearly shows the public's views about the importance of keeping their personal information private. The fact that "93% of adults say that being in control of who can get information about them is important"¹⁶ and "90% say that controlling what information is collected about them is important"¹⁷ indicates that the public holds strong views regarding the very practices that the Brandeis Program's contents are regarding.

The Brandeis Program has a plan to turn "privacy preferences into actionable decisions,"¹⁸ which has obvious benefits as well as many potential issues. The urgency to inform the public is highlighted by the fact that news media has been recently asking many questions about the Brandeis Program and questioning the implications it may have.¹⁹ This month the *New York Times* posed the question, "(i)f people have the ability to limit which of their digital footprints can be seen or tracked, doesn't that undermine the business model of many ad-based Internet companies, including Google and Facebook?"²⁰

¹⁰ 5 U.S.C. § 552(a)(6)(E)(v)(II) (2008); *Al-Fayed v. CIA*, 254 F.3d 300, 306 (D.C. Cir. 2001).

¹¹ *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) ("[T]he Court concludes that EPIC is indeed "primarily engaged in disseminating information" for the purposes of expediting the request.").

¹⁶ *Americans' Attitudes About Privacy, Security and Surveillance*, Pew Research Center (May 20, 2015) <http://www.pewinternet.org/2015/05/20/americans-attitudes-about-privacy-security-and-surveillance/>

¹⁷ *Id.*

¹⁸ *DARPA Seeks Happy Medium Between Access to Data and Control Over It*, Fed Tech Magazine (Sept. 14, 2015) <http://www.fedtechmagazine.com/article/2015/09/darpa-seeks-happy-medium-between-access-data-and-control-over-it>

¹⁹ *Once a Destroyer of Privacy, DARPA Wants to Make It Invincible*, IDEAFEED (Sept. 15, 2015) <http://bigthink.com/ideafeed/darpa-wants-to-bring-privacy-back-to-the-american-people>

²⁰ *With 'Brandeis' Project, Darpa Seeks to Advance Privacy Technology*, The New York Times (Sept. 14, 2015) http://bits.blogs.nytimes.com/2015/09/14/with-brandeis-project-darpa-seeks-to-advance-privacy-technology/?_r=0

Request for "News Media" Fee Status and Fee Waiver

EPIC is a "representative of the news media" for fee classification purposes.²¹ Based on EPIC's status as a "news media" requester, EPIC is entitled to receive the requested record with only duplication fees assessed.²²

Further, because disclosure of this information will "contribute significantly to public understanding of the operations or activities of the government," any duplication fees should be waived.²³

Conclusion

Thank you for your consideration of this request. As provided in 5 U.S.C. § 552(a)(6)(E)(ii)(I), I will anticipate your determination on our request within ten business days. For questions regarding this request I can be contacted at 202-483-1140, ext. 123 or FOIA@epic.org.

Respectfully Submitted,

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EPIC Student Intern

John Tran
EPIC FOIA Counsel
Coordinator, EPIC Open Government Project

²¹ *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003).

²² 5 U.S.C. § 552(a)(4)(A)(ii)(II).

²³ 5 U.S.C. § 552(a)(4)(A)(iii). *See* 32 C.F.R. § 286.28(d)(1).