



OFFICE *of* GOVERNMENT INFORMATION SERVICES

April 8, 2015 — Sent via email

[REDACTED]

Re: Case No.: 201500384
NG: CM: KG

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

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e-mail: ogis@nara.gov
phone: 202-741-5770
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Dear [REDACTED]:

This responds to your request for assistance from the Office of Government Information Services (OGIS), which we received on February 5, 2015 via email. Your request for assistance pertains to your records request to the United States Citizenship and Immigration Service (USCIS).

OGIS was created to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process.

OGIS provides mediation services to resolve disputes between FOIA requesters and Federal agencies. After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. OGIS then decides how and whether to proceed on the request for assistance. Please know that OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

OGIS staff carefully reviewed the correspondence you submitted with your request for assistance. I understand that you made a request to USCIS for "[REDACTED]". USCIS identified 43 pages responsive to your request. The agency released 29 pages in their entirety and 14 pages in part withholding sections of those pages pursuant to FOIA exemption 4. You appealed the agency's decision. USCIS responded on [REDACTED], denying your appeal and affirming the initial release.

OGIS reached out to USCIS to get more information about how your request was processed. USCIS informed OGIS that it first tasks a search for [REDACTED] regional centers. Once responsive records are located, the agency informs the company operating the [REDACTED] Center that it intends to release information and gives the company a chance to review the document to ensure sensitive commercial information is protected pursuant to FOIA Exemption 4, 5 U.S.C. § 552(b)(4). USCIS reviews the agency's suggested withholdings and balances the perceived harm claimed by the subject of the request against the possible strong countervailing public interest in disclosure. In some cases, USCIS sees no potential competitive harm to the [REDACTED] center and releases the documents in full, and sometimes the agency withholds parts of the records in accordance with the



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requirements of FOIA Exemption 4. These decisions are made on a case-by-case basis, and each final termination notices receives its own review.

Exemption 4 protects “trade secrets or commercial or financial information obtained from a person [that is] privileged or confidential.” The exemption provides protection to submitters who furnish commercial or financial information to the government by insulating them from competitive disadvantages that might result from disclosure. To qualify for Exemption 4 protection, information must be a trade secret or it must be commercial or financial, obtained from a person (this includes corporations) and privileged or confidential.

After our conversation, USCIS FOIA staff contacted the office within USCIS that creates the [REDACTED] [REDACTED] for additional information. The program office elaborated that when USCIS disagrees with a company’s assertion that information should be withheld, USCIS will contact the company to discuss its position, particularly with regard to relevant case law. In many cases, the company agrees to disclosure. In the rare occasion that USCIS and company disagree, agency and company lawyers will get involved to come to a decision. If those discussions fail, the company may file a Reverse FOIA lawsuit, which delays any release of responsive records until the case is decided.

I hope you find this information useful in understanding why USCIS withheld parts of the records responsive to your request this time. At this time, there is no further assistance OGIS can offer. Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

/s/

Nikki Gramian, Acting Director
Office of Government Information Services (OGIS)