



OFFICE *of* GOVERNMENT INFORMATION SERVICES

January 20, 2016—Sent via email

[REDACTED]
[REDACTED]

Re: Case No.: 201600177
NG: HK: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

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OGIS
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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 November 12, 2015 via email. Your request for assistance pertains to your Freedom of Information Act (FOIA) requests to the Federal Communications Commission (FCC).

Congress created OGIS 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 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 discussed your requests with FCC FOIA staff. In that discussion, the FCC notified OGIS that this matter is now in litigation in [REDACTED]. [REDACTED] For this reason, OGIS, which provides mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation, can no longer be involved in this case, 5 U.S.C. § 552(h)(1)-(3). However, as a courtesy to you, we are providing the FCC's explanation of its actions on your FOIA request.

FCC FOIA staff explained that you made two FOIA requests, Nos. [REDACTED] [REDACTED], for all records related to [REDACTED] [REDACTED]. The FCC aggregated these requests and responded to both on [REDACTED] by releasing 14 pages in part. You appealed this response, and in the course of responding to your appeal, the agency located an additional 87 responsive pages, which it released in part. You dispute the agency's response to your requests, and asked for OGIS's assistance with this matter.

OGIS staff discussed your requests and appeal with FCC FOIA staff. Specifically, OGIS inquired about the search that was done in response to your requests and appeal and your concern that there may be additional unreleased responsive records. FCC FOIA staff, in response to your appeal, expanded the scope of its search to include all records related [REDACTED]. The FCC confirmed that it has now found and released to you all records responsive to your FOIA requests.



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In your submission to OGIS, you described your concerns about the FCC's decision to withhold portions of the records responsive to your requests. We discussed this matter with the FCC, and the Commission explained that it withheld portions of the responsive records pursuant to FOIA Exemption 6, 5 U.S.C. § 552(b)(6), which protects information from release when disclosure of the information would be a "clearly unwarranted invasion of personal privacy." Specifically, the agency withheld names and other identifying information pertaining to specific FCC employees. Considering that the central purpose of FOIA is to open the government's activities to scrutiny, a key question in balancing the personal interest of the individual against the public interest in disclosure is whether disclosure of the information would shed light on the operations of government. While there may be a public interest in the way an agency carries out its actions, the interest does not outweigh an individual agency employee's privacy interests. FCC FOIA staff confirmed that the agency is firm in its decision to withhold this information.

In our discussion with the FCC, Commission FOIA staff expressed concern that you may not be satisfied with the result of [REDACTED]. The FOIA staff explained to OGIS that their department's jurisdiction is limited to receiving and processing requests for records, so they cannot assist you with the substance of [REDACTED]. However, the FOIA staff advised that if you have new issues that were not included in [REDACTED], you may wish to file a new [REDACTED].

In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions. I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

JAMES V.M.L. HOLZER
Director

cc: FCC FOIA staff

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.