



OFFICE of GOVERNMENT INFORMATION SERVICES

August 28, 2017 – sent via email

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Dear Ms. Rimon:

I write to bring to your attention the use of “still interested” letters to administratively close Freedom of Information Act (FOIA) requests by the FOIA program of the Office of Inspector General (OIG), Department of Homeland Security (DHS).

As you may know, in an effort to ensure that a FOIA program’s resources are used efficiently, some Federal agencies ask requesters if they are still interested in the requested records. This correspondence is typically generated by an agency after a delay in responding to the request, and the agency sets a deadline for the requester’s affirmative response; not hearing back from the requester, the agency then closes the request. On July 2, 2015, the Office of Information Policy (OIP) at the U.S. Department of Justice issued guidance on limiting the use of still interested letters.¹ Among the provisions of OIP’s guidance is that the agency provide requesters with no fewer than *30 working days* to respond (emphasis in original).

Shawn Musgrave came to the Office of Government Information Services (OGIS) recently to share an August 16, 2017 example of still interested correspondence in which the DHS OIG FOIA office provided him **15 days** to affirm his interest rather than the 30 working days recommended in OIP’s guidance. The letter Mr. Musgrave provided us referenced an April 25, 2014 request, No. 2014-107.

As the end of Fiscal Year (FY) 2017 approaches, we understand that agencies face increased pressure to close old requests and reduce their backlogs. While the use of “still interested” letters can help ensure agencies do not waste scarce resources



¹ “Limitations on Use of ‘Still-Interested’ Inquiries,” last modified July 20, 2015, <https://www.justice.gov/oip/oip-guidance-8>.

Laurel Loomis Rimon

August 28, 2017

Page 2 of 2

processing requests that are no longer of interest to requesters, it is critical that these letters be used in accordance with current guidance and we ask that you remind DHS OIG's FOIA professionals about OIP's guidance on still interested letters.

During FY 2016, OGIS reviewed the use of still interested letters. Our review involved a historical assessment on the volume of requests closed using still interested correspondence by the agencies that receive a majority of FOIA requests government-wide and interviews with FOIA offices that reported a relatively large number of administrative closures. As part of our report, we made several recommendations for how FOIA programs can ensure that these letters comply with OIP guidance.

We draw your attention to our report and encourage you to implement the steps included in our recommendations.² In particular, we recommend that you:

- incorporate OIP's guidance on the proper use of any still interested correspondence in any existing or future Standard Operating Procedures; and
- ensure that the DHS OIG's FOIA managers are aware of how FOIA processors are using still interested letters.

One suggestion for improving compliance with regard to still interested letters is for the FOIA manager to sign these letters rather than the FOIA processor.

Thank you for your assistance with this matter. If you have any questions, please do not hesitate to contact me at 202-741-5771 or at alina.semo@nara.gov.

Sincerely,



ALINA M. SEMO

Director

cc: Avery Roselle, FOIA Officer and FOIA Public Liaison, DHS OIG
James Holzer, Deputy Chief FOIA Officer, DHS

² "Recommendations to Improve the Transparency of the Use of Still Interested Letters," accessed May 24, 2016, <https://ogis.archives.gov/Assets/Still-interested-part-3-final.pdf?method=1>