



OFFICE of GOVERNMENT INFORMATION SERVICES

October 22, 2015 - Sent via email

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████████████████████

Re: Case No. 201501194
NG: CM: KG

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear ██████████:

This responds to your September 14, 2015 letter to the Office of Government Information Services (OGIS), which we received via email. Your request for assistance concerns your Freedom of Information Act (FOIA) requests to the Department of Labor (DOL).

As you are aware, Congress created OGIS to complement existing FOIA practice and procedure and we strive to work in conjunction with the existing request and appeal process. OGIS's goal, whenever practical, is to allow 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 process a particular request before others. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

You contacted OGIS regarding multiple pending FOIA requests and appeals to DOL. You requested assistance obtaining estimated dates of completion for eight pending FOIA requests and three appeals.

OGIS contacted DOL's FOIA Appeals staff for estimated date of completion for your appeals pending before that office. While the FOIA gives requesters the right to request an estimated date on which an agency expects to respond to a request, 5 U.S.C. § 552(a)(7)(B), the appeals staff asserts that the agency cannot provide an accurate estimated date of completion for your appeals. The FOIA appeals staff explained the office currently has over 400 appeals in its queue, and it provided the following information about the position of your appeals in that queue:

- Request No. ██████████/Appeal No. ██████████: 15th in the appeals queue
- Request No. ██████████/Appeal No. ██████████: 66th in the appeals queue
- Request No. ██████████/Appeal No. ██████████: 260th in the appeals queue

According to the agency's annual report from fiscal year 2014, the Office of Workers' Compensation Programs (OWCP) took an average of 53.9 days to process administrative appeals.

You explain in your submission to OGIS that DOL was reconsidering its decision on the fee category it assigned to six of your requests in light of evidence you provided that shows your expectation that your work will be published, and thus the agency should consider you in the media requester fee category. In response to the agency's request for information, you provided emails from publication editors expressing their interest in the research you are doing. You also



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provided information about your publication history. At the date of your initial request to OGIS, the agency had not made a decision on your request for reconsideration.

On ██████████, DOL informed OGIS that the agency responded to your request for reconsideration; you provided us with a copy of the agency's correspondence denying your request to be placed in the media requester fee category. This response affects the following FOIA requests:

- Request No. ██████████

In the denial letter, DOL states that your documentation "reveals sporadic and irregular publication history," and is "not sufficient to establish that you are a representative of the news media for fee waiver purposes regarding these referenced requests." The agency gave you the right to appeal this determination regarding your requester status within 90 days of ██████████.

I understand that you are dissatisfied with the agency's action on your request for reconsideration of your fee category. While we encourage you to preserve your administrative rights by filing an administrative appeal according to the directions in DOL's letter, we would also be glad to reach out to the agency to discuss its decision on your request for reconsideration. Please let us know if you would like us to open an OGIS case on this matter.

Regarding the status of your remaining requests, Mr. Hicks informed OGIS that the agency closed the following FOIA requests and provided you with appeal rights:

- Request No. ██████████
- Request No. ██████████
- Request No. ██████████

I hope that this information about the status of your requests and appeals 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: Thomas Hicks, FOIA Public Liaison, Department of Labor