



OFFICE of GOVERNMENT INFORMATION SERVICES

May 27, 2016 – sent via email

Assistant Secretary Joyce A. Barr
Chief FOIA Officer
U.S. Department of State
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Washington, DC 20520

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Dear Ms. Barr:

I write to you in your role as Chief Freedom of Information Act (FOIA) Officer for the Department of State with agency-wide responsibility for efficient and appropriate compliance with FOIA. I bring to your attention the department's use of "still interested" letters to administratively close FOIA requests.

In the course of processing FOIA requests, some Federal agencies ask requesters if they are still interested in the requested records; this correspondence typically comes after a delay in responding to the request and sets a deadline for the requester's affirmative response; receiving none, the agency closes the request. On July 2, 2015, the Office of Information Policy (OIP) at the Department of Justice issued guidance on limiting the use of still interested letters.¹ Among the guidance's provisions, OIP clarified that "the time period to allow requesters to respond to 'still-interested' inquiries *should be no shorter than thirty (30) working days*" (emphasis in original).

Nate Jones of the National Security Archive came to the Office of Government Information Services (OGIS) recently with two examples of still interested correspondence in which the State Department provided him 15 days to affirm his interest rather than the 30 working days mandated in OIP's guidance. The May 16, 2016 emails Mr. Jones provided us referenced two requests from the National Security Archive submitted in April 2009 (Request No. F-2009-03359) and April 2011 (F-2011-03129).

In light of the pressures the State Department faces to close old requests while meeting court-ordered processing deadlines as a result of litigation, this is a good time to remind State FOIA processors about the importance of compliance with the statute, and OIP's guidance on still interested letters. As part of our statutory mandate to review FOIA policies, procedures and compliance, OGIS



¹ "OIP Releases New Guidance for Agency Still-interested Inquiries," last modified July 20, 2015, <http://www.justice.gov/oip/blog/oip-releases-new-guidance-agency-still-interested-inquiries>.

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recently reviewed the historical use of still interested letters by the agencies that receive a majority of FOIA requests government-wide and made several recommendations. We suggest that you implement steps included in our recommendations.² In particular, we recommend that you:

- include the proper use of any still interested correspondence in the program's Standard Operating Procedures; and
- ensure that the State Department's FOIA managers are aware of how FOIA processors are using still interested letters; one way to improve oversight of the use of still interested letters is for the FOIA manager to sign these letters.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me at 202-741-5772 or at nikki.gramian@nara.gov.

Sincerely,

/S/

NIKKI GRAMIAN
Acting Director

cc: Kellie Robinson, FOIA Program Manager and FOIA Public Liaison, State Department

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>