



United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

IN REPLY REFER TO:
7202.4-DOI-OS-2021-005001

July 29, 2021

Via email: foia@aflegal.org

Gene Hamilton
America First Legal
600 14th Street NW, 5th Floor
Washington, DC 20005

Dear Mr. Hamilton:

The Office of the Secretary FOIA office received your Freedom of Information Act (FOIA) request, dated July 12, 2021 on July 12, 2021 and assigned it control number **DOI-OS-2021-005001**. Please cite this number in any future communications with our office regarding your request.

A. Records sufficient to identify all employees who entered into a position at the agency as a Political Appointee since January 20, 2021, to the date this records request is processed, and the title or position of each employee (to the extent that individuals have held multiple positions during this time period, identify each title or position and the time period it was held).

B. Records sufficient to identify all career employees who, between January 20, 2021, and date this records request is processed, have been detailed to 1) position eligible to be filled by a Political Appointee, or 2) new position through coordination or consultation with either the White House Liaison or Presidential Personnel Office; title or position of each employee while on detail; and each employee's originating agency or component, and prior title.

C. For each individual identified in response to Requests 1 and 2:

1. Resume provided by the individual to the agency in connection with determining the appropriate salary for the individual, or if that is not available, a recent resume contained within the agency's records. AFL has no objection to the redaction of employee's contact information, such as email, address, phone numbers etc.; however, prior employment, education, and descriptions of such experiences are not exempt and should be produced;
2. Any waivers issued to individual pursuant to 18 U.S.C. § 208(b);
3. Any authorizations for individual issued pursuant to 5 C.F.R. § 2635.502;

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4. Any Ethics Pledge waivers, issued pursuant to Section 3 of Executive Order 13989 and Office of Government Ethics Legal Advisory 21-04, received by individual;
5. Any ethics agreement executed by individual; any Certification of Ethics Agreement Compliance; and any records relating to any violation by an individual of his or her ethics agreement;
6. Records reflecting recusal determination made or issued for individual;
7. Copies of any SF-50 forms for individual reflecting any change in position, title, or salary, including when the employee starts or leaves a position.
8. Completed Ethics Pledge for each individual.

Interim Response

We are writing to partially respond to your request on behalf of the Office of the Secretary. We have enclosed one (1) file consisting of 85 pages, which are being released to you in part. We are continuing to process additional responsive records for your request.

Portions of these materials are being withheld under the following FOIA Exemptions:

Exemption 6 allows an agency to withhold “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” [5 U.S.C. § 552\(b\)\(6\)](#). We are withholding 23 pages in part under Exemption 6.

The phrase “similar files” covers any agency records containing information about a particular individual that can be identified as applying to that individual. To determine whether releasing records containing information about a particular individual would constitute a clearly unwarranted invasion of personal privacy, we are required to balance the privacy interest that would be affected by disclosure against any public interest in the information.

Under the FOIA, the only relevant public interest to consider under the exemption is the extent to which the information sought would shed light on an agency’s performance of its statutory duties or otherwise let citizens ‘know what their government is up to. The burden is on the requester to establish that disclosure would serve the public interest. When the privacy interest at stake and the public interest in disclosure have been determined, the two competing interests must be weighed against one another to determine which is the greater result of disclosure: the harm to personal privacy or the benefit to the public. The purposes for which the request for information is made do not impact this balancing test, as a release of information requested under the FOIA constitutes a release to the general public.

The information that has been withheld under Exemption 6 consists of personal phone numbers, private emails, and other personal information and we have determined that the individuals to whom this information pertains have a substantial privacy interest in withholding it. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of the privacy of these individuals and we are withholding it under Exemption 6.

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We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

Jeffrey Scott, Attorney-Advisor, in the Office of the Solicitor, was consulted in reaching this decision. Cynthia Sweeney, FOIA & Document Production Program Analyst, Office of the Secretary FOIA Office, is responsible for making this decision.

Appeals

You may appeal this decision to the Department's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this final letter responding to your FOIA request. Appeals arriving or delivered after 5 PM Eastern Time, Monday through Friday, will be deemed received on the next workday. **Your appeal must be made in writing** and addressed to:

Attn: FOIA/Privacy Act Appeals Officer
U.S. Department of the Interior
Office of the Solicitor
1849 C Street, N.W.
MS6556 MIB
Washington, D.C. 20240
Fax: 202-208-6677
E-mail: FOIA.Appeals@sol.doi.gov

You must include with your appeal copies of all correspondence between you and the Office of the Secretary concerning your FOIA request, including a copy of your original FOIA request and the response letter. You must also include, in as much detail as possible, an explanation of why you believe the Office of the Secretary's response was in error. Failure to include this documentation with your appeal will result in the Department's rejection of your appeal, unless the FOIA/Privacy Act Officer determines (in her sole discretion) that good cause exists to accept the defective appeal. All communications concerning your appeal, including envelopes, should be clearly marked with the words "FREEDOM OF INFORMATION APPEAL." The appeal should include your name, mailing address, daytime telephone number (or the name and telephone number of an appropriate contact), email address, and fax number (if available) in case the Department needs additional information or clarification. For more information on FOIA administrative appeals, including how the Department will respond to your appeal, please refer to Subpart H of the Department's FOIA regulations, [43 C.F.R. § 2.57-§ 2.64](#).

Conclusion

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. See [5 U.S.C. 552\(c\)](#). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

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The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://www.archives.gov/ogis>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the Department's FOIA & Privacy Act Appeals Officer.

If you have any questions regarding the status of your request, or any of the issues discussed in this letter, you may contact our office by phone at (202) 513-0765, by fax at (202) 219 - 2374, by e-mail at os_foia@ios.doi.gov or by mail at U.S. Department of the Interior, 1849 C St, N.W., MS-7328 MIB, Washington, D.C. 20240. Contact information for the Department's FOIA Public Liaison, who you may also seek dispute resolution services from, is available at <https://www.doi.gov/foia/foiacenters>.

Sincerely,

Leah Fairman
Deputy FOIA Officer
Office of the Secretary
FOIA Office