



May 17, 2023

Via Email: Civil.routing.FOIA@usdoj.gov

Kenneth Hendricks
Chief, FOIA and Privacy Office
Civil Division
Department of Justice
Room 8314
1100 L Street, NW
Washington, DC 20530-0001

Via Email: CRT.FOIArequests@usdoj.gov

Kilian Kagle
Chief
FOIA/PA Branch
Civil Rights Division, Department of Justice
4CON, Room 6.153
950 Pennsylvania Avenue, NW
Washington, DC 20530

Freedom of Information Act Request: Microsoft Data

Dear FOIA Officers:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL's email list contains over 75,210 unique addresses, our Twitter page has 90,100 followers, the Twitter page of our Founder and President has over 441,600 followers, our Facebook page has 127,000 followers, and we have another approximately 31,800 followers on GETTR.

I. Requested Records

AFL requests disclosure of the following records:

- 1) Communications or documents related to any audits conducted by the Department of Labor's Employment and Training Administration's Office of Foreign Labor Certification (OFLC) of permanent labor certification program (PERM) applications for Microsoft Corporation ("Microsoft"). This includes any communications with the Department of Labor or any related internal Department communications.
- 2) Communications with Microsoft (or its attorneys or agents) about the audits in #1, or about any potential violations or abuses of the PERM, petition, or visa processes for current or potential Microsoft employees who are not U.S. citizens.
- 3) Communications with any current or former Microsoft employees complaining about abuses or potential unlawful conduct by Microsoft in relation to obtaining labor certification, petition approval, H or L non-immigrant visas, EB3 immigrant visas, or OPT status for current or potential Microsoft employees who are not U.S. citizens.
- 4) Charges filed with the Civil Rights Division's Immigrant and Employee Rights Section (IER) (such as through its online portal at <https://www.justice.gov/crt/filing-charge>), and which were filed by Microsoft applicants for employment, employees, or former employees who believe they were discriminated against based on their citizenship, immigration status or national origin in hiring, firing, recruitment or during the employment eligibility verification process (Form I-9 and E-Verify); or subjected to retaliation.
- 5) All records of communications to IER through its worker hotline (1-800-255-7688), employer hotline (1-800-255-8155), TTY hotline (1-800-237-2515), or email inbox (IER@usdoj.gov) about Microsoft applicants or employees and related to the same subject matter as #4.
- 6) Internal communications related to #s 3-5.
- 7) The relevant time frame is January 1, 2021, through the date of production.

II. Custodians

A. Immigrant and Employee Rights Section (IER), Civil Rights Division:

- All political appointees, members of the Senior Executive Service, or employees at the GS-15 level in IER.

- Any individual who receives, evaluates, or processes submissions received at IER's worker hotline (1-800-255-7688), employer hotline (1-800-255-8155), TTY hotline (1-800-237-2515), or email inbox (IER@usdoj.gov).

B. Office of Immigration Litigation (OIL), Civil Division:

- All political appointees, members of the Senior Executive Service, or employees at the GS-15 level in OIL.
- Any individual who receives, evaluates, or processes submissions received from IER's worker hotline (1-800-255-7688), employer hotline (1-800-255-8155), TTY hotline (1-800-237-2515), or email inbox (IER@usdoj.gov).

III. Processing and Production

Per 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's fee waiver regulations, AFL requests a waiver of all search and duplication fees. AFL has a demonstrated ability and intention to effectively convey the information broadly to the public; AFL's status as a representative of the news media has been recognized by other agencies for granting fee waivers by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security. As a non-profit organization, AFL has no commercial interest, and the request is made entirely to serve the public interest. We are, of course, available to provide additional information in writing or offline in support of this request. If AFL's request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

Processing should strictly comply with the processing guidance in the Attorney General's Memorandum on Freedom of Information Act Guidelines. If you have any questions about our request or believe further discussions regarding search and processing would facilitate the more efficient production of requested records, please get in touch with me at FOIA@aflegal.org.

To accelerate your release of responsive records, AFL welcomes production on an agreed rolling basis. Please provide responsive records in an electronic format by email. Alternatively, please provide responsive records in native format or in PDF format on a USB drive to America First Legal Foundation, 611 Pennsylvania Ave SE #231, Washington, DC 20003.

Thank you in advance for your cooperation.

Sincerely,

/s/ James Rogers

America First Legal Foundation