



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Office of Diversity, Equity, Inclusion
and Accessibility

August 4, 2022

Via Electronic Mail

Reed D. Rubinstein
America First Legal Foundation
611 Pennsylvania Ave SE #231
Washington, DC 20003
FOIA@aflegal.org

Re: Final Response to Freedom of Information Act (FOIA) Request No. 2022-00489

Dear Reed Rubinstein:

This is the final response to your FOIA request dated March 30, 2022 to the U.S. Office of Personnel Management (OPM), assigned tracking number 2022-00489. You requested the following:

A. The Agency's "Equity Action Plan," that was required by Section 7 of Executive Order 13985 (January 20, 2021) on "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," to be submitted to the Assistant to the President for Domestic Policy and the Director of the Office of Management and Budget by January 20, 2022.

B. The Agency's "Equity Assessment," that was required by Section 5 of Executive Order 13985 (January 20, 2021) on "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," to be submitted to the Assistant to the President for Domestic Policy by August 8, 2021.

Your request was processed under the FOIA, 5 U.S.C. § 552.

A search was conducted by the Office of Diversity Equity Inclusion and Accessibility. Responsive records for Item A of your request are publicly available at www.opm.gov/equity. Records totaling 22 pages were located in responsive to Item B of your request. Upon review, OPM has determined to withhold these records in full, pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5).

Exemption 5 allows an agency to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party . . . in litigation with the agency." 5 U.S.C. § 552(b)(5). As a threshold matter, the information being withheld is intra-agency because it was exchanged within OPM and inter-agency because it was exchanged between OPM and another/other federal executive government agency/agencies.

Reed Rubenstein
2022-00489

The deliberative process privilege protects the decision-making process of government agencies to encourage the frank exchange of ideas on policy matters, protect against the premature disclosure of proposed policies before they are actually adopted, and protect against public confusion that might result from disclosure of reasons and rationales that were not ultimately the grounds for an agency's action. Information must be both predecisional and deliberative. The information that has been withheld under the deliberative process privilege is both predecisional and deliberative. It is predecisional because it is antecedent to the adoption of an agency policy. It is also deliberative because it reflects the give-and-take of the consultative process.

If you are not satisfied with OPM's determination in response to this request, you may administratively appeal in writing by email to OGCAffy@opm.gov or by mail to:

U.S. Office of Personnel Management
Office of the General Counsel
1900 E Street, N.W.
Washington, D.C. 20415

An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why you believe the denying official erred. Appeals must be electronically transmitted or postmarked within 90 days of the date of the response to your request. It is recommended that FOIA administrative appeals be submitted via email to avoid processing delays.

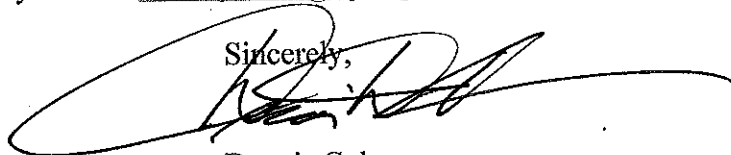
Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. You may contact OGIS by e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; facsimile at 202-741-5769; or mail at:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001

You may also contact OPM's FOIA Public Liaison, Camille C. Aponte-Rossini, at Camille.Aponte-Rossini@opm.gov or 202-606-1153.

If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact Tiffany Ford at Tiffany.Ford@opm.gov or 202-606-9175.

Sincerely,



Dennis Coleman
Chief Management Officer
U.S. Office of Personnel Management