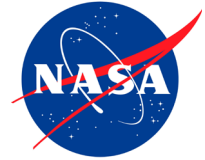


National Aeronautics and Space Administration



Headquarters

Washington, DC 20546-0001

June 15, 2022

Reply to attn. of: Office of Communications

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

Re: NASA FOIA Tracking Number **22-HQ-F-00417**

Dear Reed Rubinstein:

This is our final response to your Freedom of Information Act (FOIA) request to the National Aeronautics and Space Administration (NASA), dated and received in this office on March 30, 2022. Your request was assigned the above-referenced tracking number. You seek:

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.

This letter responds to request item B referenced above. We conducted a search of NASA's Office of the Administrator using the search term "Equity Assessment".¹ That search identified records responsive to your request. We reviewed the responsive records under the FOIA to determine whether they may be disclosed to you. Based on that review, this office is providing the following:

¹ If you are dissatisfied with these search terms, please provide NASA with additional terms you deem appropriate.

9 page(s) are released in full (RIF);²
17 page(s) are released in part (RIP);
0 page(s) are withheld in full (WIF);
0 page(s) are duplicate copies of material already processed;
0 page(s) not provided were referred to another entity.

NASA redacted from the enclosed documents certain information pursuant to the following FOIA exemptions:

Exemption 5, 5 U.S.C. § 552(b)(5)

Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.”

5 U.S.C. § 552(b)(5). Courts interpret Exemption 5 to incorporate three primary privileges: the attorney work-product privilege, the attorney-client privilege and the deliberative process privilege. NASA invokes the deliberative process privilege.

The deliberative process privilege is intended to protect the decision-making process of government agencies and to encourage frank discussion of legal and policy issues. The scope of the privilege covers documents reflecting advisory opinions, recommendations, and deliberations comprising part of a process by which government decisions and policies are formulated. To qualify for the deliberative process privilege, a document must be both “pre-decisional” and “deliberative.” Documents are pre-decisional when they precede an agency decision and are prepared in order to assist an agency in arriving at its decision. Documents are deliberative when they comprise part of the process by which government decisions are made. The types of information NASA withheld under this exemption consists of draft documents, recommendations and/ opinions expressed by employees. NASA considered the foreseeable harm that would result from the release of this information and determined that its release would hinder the decision-making process, create a chilling effect on internal deliberations, lead to uninformed decision-making, and public confusion.

Exemption 6, 5 U.S.C. § 552(b)(6)

Exemption 6 allows withholding of “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). NASA invokes exemption 6 to protect e-mail addresses.

Fees

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$50 minimum, there is no charge.

² All page counts are approximate numbers.

Appeal

You have the right to appeal my action regarding your request. Your appeal must be received within 90 days of the date of this response. Please send your appeal to:

Administrator
NASA Headquarters
Executive Secretariat
ATTN: FOIA Appeals
MS 9R17
300 E Street S.W.
Washington, DC 20546

Both the envelope and letter of appeal should be clearly marked, "Appeal under the Freedom of Information Act." You must also include a copy of your initial request, the adverse determination, and any other correspondence with the FOIA office. In order to expedite the appellate process and ensure full consideration of your appeal, your appeal should contain a brief statement of the reasons you believe this initial determination should be reversed. Additional information on submitting an appeal is set forth in the NASA FOIA regulations at 14 C.F.R. § 1206.700.

Assistance and Dispute Resolution Services

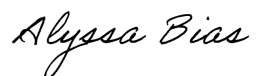
If you have any questions, please feel free to contact me at Alyssa.k.bias@nasa.gov or (202) 358-4464. For further assistance and to discuss any aspect of your request you may also contact:

Stephanie Fox
Chief FOIA Public Liaison
Freedom of Information Act Office
NASA Headquarters
300 E Street, S.W., 5P32
Washington D.C. 20546
Phone: 202-358-1553
Email: Stephanie.K.Fox@nasa.gov

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 it offers. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Important: Please note that contacting any agency official including myself, NASA's Chief FOIA Public Liaison, and/or OGIS is not an alternative to filing an administrative appeal and does not stop the 90 day appeal clock.

Sincerely,

A handwritten signature in cursive script that reads "Alyssa Bias".

Alyssa Bias
Government Information Specialist

Enclosure