

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

September 6, 2023

Ms. Jacqueline Stevens
601 University Place, 2d floor
Political Science Department
Evanston, IL 60208

**RE: Stevens v. ICE 20-cv-2725
ICE FOIA Case Number 2020-ICLI-00042
Supplemental Release**

Dear Ms. Stevens:

This letter is a supplemental response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). Your client seeks records relating to the following Freedom of Information Act requests: 2018-ICFO-56530, 2020-ICFO-18634, 2019-ICFO-33429, 2019-ICFO-29171, 2018-ICFO-59138, and 2019-ICFO-24680. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

For this production, ICE is making a discretionary re-release of 199 pages of records. ICE has reviewed the pages and determined that 77 pages will be released in full and portions of the remaining 122 pages will be withheld pursuant to FOIA Exemptions (b)(4), (b)(6), (b)(7)(C) and (b)(7)(E) as described below. The pages will retain their original Bates numbers.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption covers two categories of information in federal agency records: (1) trade secrets; and (2) information that is commercial or financial, obtained from a person (which may include corporations or state governments), and privileged or confidential, which is both customarily and actually treated as private by the submitter of the information. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2362-63 (2019). I have reviewed the responsive documents, the submitter's objections to release, and relevant case law, and I have determined that portions of the responsive records are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy

interests of the non-public-facing individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, investigators, or individuals performing their official duties in connection with a law enforcement agency, in not being unwarrantably associated with alleged criminal activity or becoming targets for revenge by begrudged individuals. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of the non-public-facing individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant United States Attorney Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Marcus K. Francis Sr.
Supervisory Paralegal Specialist

Enclosure: 199 pages

County of Berks Warning: This is an external email. Please exercise caution.

Good Afternoon (b)(6); (b)(7)(C),

Thank you for talking with us today. We are providing a clarification and additional information for you to pass on to your CFO below:

1. If there are changes to the scope of work, Berks County will submit a price proposal for the changes and ICE will review the proposal. Once the proposal is approved by ICE, the change to the scope and price will be memorialized via a bi-lateral modification to the IGSA.
2. Based on historical data, it is our understanding that Berks has generally provided a credit back to ICE. While it is difficult-to-impossible to predict future costs, ICE believes the procedure laid out in the modification attachment 1 will be sufficient to cover any unexpected expenses that Berks may incur for your services rendered to ICE. As previously explained, a not-to-exceed ceiling must be placed on the overage CLIN to be in compliance with the Anti-Deficiency Act.
3. We will agree to change the timing of when Berks can request an adjustment to the IGSA pricing from 36 months to 24 months.
4. ICE will consider REAs submitted by Berks County at any time; supporting documentation for the REA will be required.

Please let me know if you have questions.

V/R,

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C) [mailto:(b)(6); (b)(7)(C)@countyofberks.com]
Sent: Wednesday, March 28, 2018 10:45 AM
To: (b)(6); (b)(7)(C)@ice.dhs.gov>
Cc: (b)(6); (b)(7)(C)@countyofberks.com>
Subject: RE: DROIGSA-10-0003_P00017

I do not have proposed language, these were questions from the CFO. I think mostly from the conference call we had last June.

(b)(6); (b)(7)(C)

From: (b)(6); (b)(7)(C) [mailto:(b)(6); (b)(7)(C)@ice.dhs.gov]
Sent: Tuesday, March 27, 2018 5:41 PM