



July 20, 2012

Amie Stepanovich
Electronic Privacy Information Center
1718 Connecticut Avenue, NW
Suite 200
Washington, DC 20009

Re: S&T 12-010 (final response)

Dear Ms. Stepanovich:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Privacy Office dated April 4, 2012, and received by the Science and Technology Directorate (S&T) on April 13, 2012. You are seeking 1) all correspondence, communications, and records of meetings between New York state officials and the federal government relating to the development and implementation of the new terahertz technology to conduct electronically "frisk" individuals at a distance; 2) all unfiltered or obscured images captured using the new terahertz technology; 3) all contracts, statements of work, or related documents and appendices entered into related to the new terahertz technology, including contracts for hardware, software, training, or development, including but not limited to contract HSHQDC-07-C-00016; 4) all documents detailing technical specifications or capabilities of the new terahertz technology; and 5) all documents detailing plans to implement the new terahertz technology, including but not limited to New York City.

A search for documents responsive to your request was conducted by S&T's Explosive Division. A search of emails, computer drives, and file cabinets for the key words terahertz, New York, and contract HSHQDC-07-C-00016 was conducted and produced a complete total of 613 pages. In your interim response, 176 pages were addressed and this final response letter concerns an additional 437 pages. Of those 437 pages, I have determined that 406 pages of the records are releasable in their entirety, 31 pages are partially releasable, and zero pages are withheld in their entirety pursuant to Title 5 U.S.C. § 552 FOIA Exemptions (b)(4) and (b)(6).

Enclosed are 437 pages with certain information withheld as described below.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. The courts have held that this subsection protects (a) confidential commercial information, the disclosure of which is likely to cause substantial harm to the competitive position of the person who submitted the information and (b) information that was voluntarily submitted to the government if it is the kind of information that the provider would not customarily make available to the public. I reviewed the responsive documents, the submitter's objections to release, and relevant case law, and I determined that 24 pages are partially exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests. The information withheld includes: specific test data, technological capabilities, design techniques, specific test measurements and parameters, detailed and descriptive images of devices which include information such as the weight, size and frequency. The release of this information would undermine research and development efforts of the company involved, result in reverse engineering, provide competitors with competitive information about future plans for their technology, and would cause irreparable harm to the company.

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 privacy. *[The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, driver license, social security numbers, telephone numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.]* The privacy interests of the 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.

In regards to your request for 1) all correspondence, communications, and records of meetings between New York state officials and the federal government relating to the development and implementation of the new terahertz technology to conduct electronically "frisk" individuals at a distance; and 5) all documents detailing plans to implement the new terahertz technology, including but not limited to New York City, we were unable to locate or identify any responsive records.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that

OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of the FOIA [AND PRIVACY ACT] allow us to recover part of the cost of complying with your request. In our letter dated July 19, 2012, your request for a blanket fee waiver was granted and there is no charge.

If you need to contact our office again about this matter, please refer to **S&T 12-010**. This office can be reached at stfoia@dhs.gov or (202) 254-6342.

Sincerely,



Katrina Hagan
FOIA Officer (Acting)

Enclosures: Responsive Documents, 437 pages
Inventory Sheet, 1 page