



**Homeland
Security**

Privacy Office, Mail Stop 0655

September 21, 2015

SENT VIA E-MAIL TO: TRAN@EPIC.ORG

John Tran
FOIA Counsel
EPIC
1718 Connecticut Ave. NW
Suite 200
Washington, DC 20009

Re: **2015-HQFO-00690**

Dear Mr. Tran:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated September 10, 2015, and to your request for expedited handling and a waiver of all assessable FOIA fees. Specifically, you requested the EU-US Umbrella Agreement on the data protection framework for EU-US law enforcement cooperation. Our office received your request on September 10, 2015.

As it relates to your request for expedited treatment, your request is denied. Clearly, the lack of expedited treatment in this case will not pose an imminent threat to the life or physical safety of an individual. While you may be primarily engaged in the disseminating of information, you have not detailed with specificity why you feel there is an urgency to inform the public about the request. This urgency would need to exceed the public's right to know about government activity generally. Nor did you offer any supporting evidence of an interest of the public that is any greater than the public's general interest in this request. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

You have requested a fee waiver. The DHS FOIA Regulations at 6 CFR § 5.11(k)(2) set forth six factors DHS must evaluate to determine whether the applicable legal standard for a fee waiver has been met: (1) Whether the subject of the requested records concerns "the operations or activities of the government," (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities, (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requester or a narrow segment of interested persons, (4) Whether the contribution to public understanding of government operations or activities will be "significant," (5) Whether the requester has a commercial interest that would be furthered by the

requested disclosure, and (6) Whether the magnitude of any identified commercial interest to the requester is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

Upon review of the subject matter of your request, and an evaluation of the six factors identified above, DHS has determined that it will conditionally grant your request for a fee waiver. The fee waiver determination will be based upon a sampling of the responsive documents received from the various DHS program offices as a result of the searches conducted in response to your FOIA request. DHS will, pursuant to DHS regulations applicable to non-commercial requesters, provide two hours of search time and process the first 100 pages at no charge to you. If upon review of these documents, DHS determines that the disclosure of the information contained in those documents does not meet the factors permitting DHS to waive the fees, then DHS will at that time either deny your request for a fee waiver entirely, or will allow for a percentage reduction in the amount of the fees corresponding to the amount of relevant material found that meets the factors allowing for a fee waiver. In either case, DHS will promptly notify you of its final decision regarding your request for a fee waiver and provide you with the responsive records as required by applicable law.

In the event that your fee waiver is denied, and you determine that you still want the records, provisions of the FOIA allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial requestors. As a non-commercial requester you will be charged for any search time and duplication beyond the free two hours and 100 pages mentioned in the previous paragraph. You will be charged 10 cents per page for duplication and search time at the per quarter-hour rate (\$4.00 for clerical personnel, \$7.00 for professional personnel, \$10.25 for managerial personnel) of the searcher. In the event that your fee waiver is denied, we will construe the submission of your request as an agreement to pay up to \$25.00. This office will contact you before accruing any additional fees.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Consistent with 6 C.F.R. § 5.5(a) of the DHS FOIA regulations, the Department processes FOIA requests according to their order of receipt. Although DHS' goal is to respond within 20 business days of receipt of your request, FOIA does permit a 10-day extension of this time period in certain circumstances.

We have queried the appropriate component of DHS for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

If you deem the decision to deny expedited treatment of your request an adverse determination, you may exercise your appeal rights. Should you wish to do so, you must send your appeal and a copy of this letter within 60 days of receipt of this letter to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in Subpart A, Section 5.9, of the DHS Regulations. Your envelope and

letter should be marked "Freedom of Information Act Appeal." Copies of the DHS regulations are available at: www.dhs.gov/foia.

Your request has been assigned reference number **2015-HQFO-00690**. Please refer to this identifier in any future correspondence. To check the status of your FOIA request, you may contact this office at 1-866-431-0486 or 202-343-1743, or you may check the status of your request online at <http://www.dhs.gov/foia-status>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chaquonna Price".

Chaquonna Price
FOIA Program Specialist