

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

)
ELECTRONIC PRIVACY INFORMATION CENTER,)
)
Plaintiff,)
)
v.) Case No. 1:11-cv-02261(JDB)
)
THE UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY,)
)
Defendant.)

**DEFENDANT’S COMBINED REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY
JUDGMENT, AND MEMORANDUM IN OPPOSITION TO PLAINTIFF’S CROSS
MOTION FOR SUMMARY JUDGMENT**

Defendant United States Department of Homeland Security (“DHS”) respectfully submits this combined Reply in support of its Motion for Summary Judgment and in Opposition to Plaintiff Electronic Privacy Information Center’s (“EPIC’s”) Cross-Motion for Summary Judgment.

INTRODUCTION

In its opposition to defendant’s summary judgment motion, EPIC does not challenge the adequacy of DHS’s search for documents. Nor does it dispute that DHS properly withheld records under Exemptions 4, 5, 6 and 7 of the Freedom of Information Act (FOIA). Instead, EPIC challenges the sufficiency of DHS’s Vaughn Index, arguing that it does not reasonably describe the documents that were released to EPIC only with minor redactions. However, because EPIC does not challenge the exemptions claimed or even assert it lacks sufficient knowledge of the documents to test the accurateness of the withholdings, it is not entitled to a

supplemental Vaughn. And in any event, the DHS Vaughn Index is sufficient, as it provides a detailed description of the information withheld and the reasons for withholding them.

EPIC's only other challenge concerns the segregability analysis of seven (out of 42) documents from the United States Secret Service ("USSS"), which is without merit. See Pl. Br. At 9-10. The USSS has met its segregability obligation because it analyzed these seven documents and found that the non-exempt information is inextricably intertwined with exempt information. The USSS concluded that redacting these documents would leave only boilerplate contractual language, sentence fragments, street addresses, and the like, which have minimal or no information content.

Finally, EPIC's request for attorney's fees and costs is premature, as the Court has not ruled on the merits of the DHS's withholdings. For these reasons, DHS's motion for summary judgment should be granted, and EPIC's motion for summary judgment be denied.¹

ARGUMENT

I. EPIC IS NOT ENTITLED TO A SUPPLEMENTAL VAUGHN INDEX

a. EPIC Does Not Challenge the FOIA Exemptions Claimed.

At the outset, Defendant should be granted summary judgment on all issues except for those expressly contested by EPIC in its opposition brief. See Franklin v. Potter, 600 F. Supp. 2d 38, 60 (D.D.C. 2009) (treating defendant's argument in summary judgment motion as conceded where plaintiff failed to address it in plaintiff's response); Hopkins v. Women's Div., General Bd. of Global Ministries, 284 F. Supp. 2d 15, 25 (D.D.C. 2003) ("It is well understood in this

¹ In its "Statement of Genuine Issues in Opposition to Defendant's Statement of Material Facts," EPIC claims that "DHS failed to note a third interim document production, dated May 31, 2012." EPIC failed to mention, however, that Defendant Counsel informed EPIC on August 1, 2012 that the May 31st production was reproduced in the USSS July 2nd and July 9th productions. As a result, Defendant would not mention that production in its declarations and brief, and that EPIC should act as though that production never occurred. See attached email from Jean-Michel Voltaire to Ms. Ginger McCall, dated August 1, 2012.

Circuit that when a plaintiff files an opposition to a dispositive motion and addresses only certain arguments raised by the defendant, a court may treat those arguments that the plaintiff failed to address as conceded.”), aff’d, 98 F. App’x 8 (D.C. Cir. 2004); Bancoult v. McNamara, 227 F. Supp. 2d 144, 149 (D.D.C. 2002) (“[I]f the opposing party files a responsive memorandum, but fails to address certain arguments made by the moving party, the court may treat those arguments as conceded, even when the result is dismissal of the entire case.” (citation omitted)).

In its opening brief, DHS moved for summary judgment on the sufficiency of the scope of its search for responsive documents, and on all withholdings made by DHS and USSS. EPIC’s opposition brief does not contest the scope of the agency’s search, nor does it dispute the appropriateness of the DHS’ and USSS’ withholdings under Exemption 4, 5, 6 and 7. Thus, EPIC has conceded any arguments as to the adequacy of the search and all withholdings that it chose not to challenge. Summary judgment should accordingly be granted to Defendant on all of the conceded issues.

b. Because EPIC Does Not Challenge the FOIA Exemptions Claimed, It Is Not Entitled to a Supplemental Vaughn Index.

The D.C. Circuit requires the filing of a Vaughn Index in FOIA litigation "to permit adequate adversary testing of the agency's claimed right to an exemption,' and enable 'the District Court to make a rational decision whether the withheld material must be produced without actually viewing the documents themselves" King v. United States Department of Justice, 830 F.2d 210, 218-19 (D.C. Cir. 1987) (citations omitted). "Thus, when an agency seeks to withhold information, it must provide 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'" Id. at 219. "Vaughn indexes serve as a means to the resolution of a FOIA case rather than as ends in themselves, and the resolution

of a FOIA case does not necessarily require an agency's submission of a Vaughn Index.” Maine v. U.S. Dep’t of Interior, 124 F.Supp. 2d 728, 737 (D. Me. 2000) vacated on other grounds, 2001 WL 98373 (D. Me. 2001); see also Minier v. CIA, 88 F.3d 796, 804 (9th Cir.1996); Brown v. Federal Bureau of Investigation, 658 F.2d 71, 74 (2d Cir.1981).

Because EPIC has chosen not to challenge the agency’s FOIA exemptions claimed, its reliance on Vaughn v. Rosen for a supplemental Vaughn is misplaced. In Vaughn, the government submitted an affidavit that contained only a general description of the documents withheld. 484 F.2d 820, 823-24 (D. C. Cir. 1997). The requester explained it was unable to respond to the government’s claim of FOIA exemptions because he did not know enough about the documents to be able to determine whether the government’s position was accurate. Id. The Court responded by instructing the government to generate “a relatively detailed analysis in manageable segments” of the documents in question. Id. at 826.

The facts in this case are different from those in Vaughn. Unlike the requester in Vaughn, EPIC has the documents in question, albeit in redacted format, and does not claim it is unable to determine the soundness of the FOIA exemptions. In fact, having the documents in its possession together with the DHS Vaughn Index and its accompanying declaration, EPIC was able to determine that it would not challenge the appropriateness of the exemptions. Having made that decision, EPIC is not entitled to a supplemental Vaughn Index. “[I]t is the function, not the form, of the index that is important.” Judicial Watch, Inc. v. Food & Drug Admin., 449 F.2d 141, 146 (D.C.Cir. 2006) (quoting Keys v. Department of Justice, 830 F.2d 337, 349 (D.C.Cir.1987)). The function of a Vaughn index is essentially to “enable[] the adversary system to operate by giving the requester as much information as possible, on the basis of which he can present his case to the trial court.” Keys, 830 F.2d at 349.

c. DHS' Vaughn Index Clearly Describes and Justifies the Bases of the Relevant FOIA Exemptions Claimed.

In any event, the DHS Vaughn Index is sufficient, as it provides a detailed description of the information withheld and the reasons for withholding them. No set formula governs the sufficiency of a Vaughn Index and the key question in determining the sufficiency of an index is whether it allows for meaningful challenge by a FOIA plaintiff and *de novo* review by the district court of an agency's claim of exemption. See Gallant v. NLRB, 26 F.3d 168, 173 (D.C. Cir. 1994); see also Hinton v. DOJ, 844 F.2d 126, 129 (3rd Cir. 1988). The level of specificity required in an agency's description of documents and explanation of the applicability of exemptions will vary depending on the nature of the information, the length of the document, and the exemption claimed. See Church of Scientology Intern v. DOJ, 30 F.3d 224, 234, 237 n. 21 (5th Cir. 1994). In determining the required specificity of a Vaughn Index, a court should keep in mind that, despite a defendant's burden of proof with regards to the FOIA exemptions, the government is "not required to provide so much detail that the exempt material would be effectively disclosed." Johnson v. Executive Office for U.S. Attorneys, 310 F.3d 771, 777 (D.C. Cir. 2002).

EPIC erroneously argues that the DHS Vaughn Index lacks sufficient document descriptions to justify the agency's withholdings. Pl. Br. At 9-10. This argument is easily refuted by the detailed information provided in the DHS Vaughn Index. This Index sufficiently described the information being redacted pursuant to respective exemptions claimed, and explained why the information is protected from disclosure. See DHS Vaughn Index at 1-23. Because most of the documents were released to EPIC with minor redactions, the released portion of the document supplements the Vaughn index, so that "[t]he released content of the

documents served to illuminate the nature of the redacted material.” See Judicial Watch, 449 F.3d at 145.

Nonetheless, after EPIC challenged the sufficiency of the documents’ description in the DHS Vaughn Index, DHS conducted an additional review of the Index and the documents withheld. See James Holzer Suppl. Decl. ¶ 3-4. The DHS found that the original Index was sufficient but could be made more clear. Id. ¶ 4. As a result, DHS has updated the Vaughn Index by (1) reorganizing it with numbered documents and simpler category headings; (2) providing more detailed descriptions of certain documents whose titles did not plainly describe the content of the document; (3) providing more detailed justification for the three draft documents that were withheld in full; and (4) explaining in greater detail the commercial information redacted. Id. ¶ 4. This Updated Vaughn Index contains a more detailed description of the records and a plain statement of the exemptions relied upon to withhold each record. This is all that could arguably be required.²

II. USSS RELEASED ALL REASONABLY SEGREGABLE INFORMATION

USSS conducted a sufficient segregability analysis and released all reasonably segregable materials. FOIA requires that “[a]ny reasonably segregable portion of a record shall be provided to any person requesting such a record after deletion of the portions which are exempt.” 5

² DHS applied Exemption (b)(6) to 31 documents by redacting the names and personal identifiable information of its law enforcement personnel to prevent unwarranted invasion of their privacy. It asserted Exemption (b)(4) to four documents by redacting commercial information, such as contract pricing and other financial information related to general and administrative rates, labor hours, and rates that it obtained from private companies during a competitive bidding process. It applied Exemption (b)(7)(E) to nine documents by deleting law enforcement techniques and procedures, including passwords to its law enforcement databases to prevent unauthorized access to intelligence information and protect its investigative efforts. It applied Exemption (b)(7)(C) to ten documents by redacting information about third parties in its law enforcement documents to prevent unwarranted invasion of their personal privacy. It withheld three draft, pre-decisional documents in their entirety under Exemption (b)(5), the deliberative process privilege, to protect internal agency deliberative process and encourage open, frank discussions on matters of policy within the agency. EPIC has not challenged the lawfulness of these specific withholdings.

U.S.C. § 552(b). This provision requires the government to apply FOIA exemptions to specific segments of information within a record. See Mo. Coal. For the Env't Found v. U.S. Army Corps of Eng'rs, 542 F.3d 1204, 1211-12 (8th Circ. 2008). The D.C. Circuit has held that to be reasonably segregable, the segments of information, if disclosed, must have some meaning. Mead Data Ctr., Inc. v. U.S. Dep't of the Air Force, 566 F.2d 242, 261 n.55 (D.C.Cir. 1977) (observing that a “court may decline to order an agency to commit significant time and resources to the separation of disjointed words, phrases or even sentences which taken separately or together have minimal or no information content”). The question of segregability is context-specific based on the nature of the document in question, Mead Data, 566 F.2d at 261 and factual material that is “inextricably intertwined with exempted portions” of the documents need not be disclosed. Johnson, 310 F.3d at 776.

EPIC's argument that the Secret Service has failed to provide non-exempt, segregable information with regard to seven documents the agency withheld in full is without merit. Pl. Br. At 12-14. The challenged documents are numbered 4-6, 10, 12, 13, and 16, and consist of mostly contracts pertaining to sensitive software utilized in protective intelligence operations and criminal investigations. See Brady J. Mills Decl. ¶¶ 6-28. They are withheld in full pursuant to several FOIA exemptions. Id. The USSS has conducted a detailed segregability analysis of these documents and concluded that they cannot be segregated. See Brady J. Mills Decl. ¶ 4. In his declaration, Mr. Mills explains, document-by-document, what the contents include and why they could not be produced. For example, he asserts that: “Pieces of information, such as standardized clausal language, sentence fragments, basic information such as street address and order number, and a few generalized sentences regarding period of performance, could be segregated and released. However, such bits of information have minimal or no value, either

separately or take together. Segregated from the remainder of the contract, these few sentences and sentence fragments, form information, and generic contract language have no informational context and are nonsensical without that context.” Id. ¶¶ 7-28. Thus, the USSS properly concluded that no further information could be released without compromising information exempt under claimed exemptions.

III. PLAINTIFF’S REQUEST FOR ATTORNEY’S FEES AND COSTS SHOULD BE DENIED AS PREMATURE.

In addition to the above challenges, EPIC also asks the Court, in its summary judgment brief, to rule that it is both eligible for and entitled to attorney’s fees and costs. Pl.’s Mem. at 14-23. EPIC’s motion for attorney’s fees is premature to say the least, as it has been made prior to the Court’s resolution of the merits. As such, the Court should defer consideration of attorney’s fees and costs until after it resolves the merits of the case. At that time, the Court can consider these issues if the parties are unable to resolve the question of fees and costs through negotiation.

“An ‘award of attorney’s fees is uniquely separable from the cause of action’ that is settled by a court’s judgment on the merits[.]” FCC v. League of Women Voters of Cal., 468 U.S. 364, 373 n.10 (1984) (finding motion for attorney’s fees did not affect the finality of a judgment for appellate purposes) (correction marks omitted) (quoting White v. N.H. Dep’t of Emp’t Sec., 455 U.S. 445, 451-52 (1982)). Indeed, in White, the Supreme Court -- in interpreting a “prevailing party” fee statute similar to FOIA -- specifically held that applications for attorney’s fees are collateral to the substantive issues of a plaintiff’s cause of action, which is decided by a final appealable judgment by a District Court. White, 455 U.S. at 451-52.

The collateral nature of attorney’s fee requests is further reinforced by both the Federal Rules of Civil Procedure and the Local Rules of this Court. See Fed. R. Civ. P. 54(d)(2)(B)(i) (requiring that a motion for attorney’s fees be made “no later than 14 days after the entry of

judgment”); 54(d)(2)(B)(ii) (requiring that a motion for attorney’s fees “specify the judgment and the statute, rule, or other grounds entitling the movant to the award”); Local Civ. R. 54.1(a) (requiring that a bill of costs be filed “within 21 days after entry of judgment”); 54.2(a) (“In any case in which a party may be entitled to an attorney’s fee from another party, the court may, at the time of entry of final judgment, enter an order directing the parties to confer and to attempt to reach agreement on fee issues.”) (emphasis added for all preceding citations). In particular, Local Rule 54.2(a) clearly contemplates that the parties should be given an opportunity to negotiate and resolve fee disputes after entry of judgment, without the Court’s intervention.

By its request for the Court to adjudicate the issues of its eligibility for, and entitlement to, attorney’s fees, EPIC presumptively asks the Court to adjudicate an issue that the parties may be able to resolve between themselves. The United States and its agencies frequently settle fee disputes in FOIA cases – typically after the entry of judgment – and there is simply no need for the Court to rule on the issues of eligibility and entitlement for fees at this early stage.

Consequently, and not surprisingly, courts in this Circuit have consistently applied the understanding that issues of attorney’s fees are collateral to judgments on the substantive merits of claims. See, e.g., Ellipso, Inc. v. Mann, 253 F.R.D. 1, 2 (D.D.C. 2008). FOIA cases, including those litigated after the OPEN Government Act of 2009, are no different. In the normal course of events, in a FOIA case or otherwise, a motion for fees and costs is made after the entry of judgment. See, e.g., Davy v. C.I.A., 550 F.3d 1155, 1158 (D.C. Cir. 2008) (“After the agency filed a superseding motion for summary judgment [in a FOIA case], the district court granted the agency’s motion. Davy thereafter timely filed a motion for attorney’s fees under 5 U.S.C. § 552(a)(4)(E).”); N.Y.C. Apparel F.Z.E. v. U.S. Customs & Border Protection Bureau,

563 F. Supp. 2d 217, 219-20 (D.D.C. 2008) (describing FOIA plaintiff's motion for attorney's fees filed after the court ruled on summary judgment).

As such, courts in this Circuit have repeatedly found that a request for attorneys' fees under FOIA, when made at the merits stage, is premature. Indeed, one such case involved the very same parties litigating here, in virtually the same posture, *i.e.*, where the plaintiff, EPIC, claimed eligibility for fees purely based on the timing of the release of records relative to its filing suit. See Elec. Privacy Info. Ctr. v. DHS, 760 F. Supp. 2d 4, 9 n.5 (D.D.C. 2011) ("In its cross-motion [for summary judgment], the plaintiff also moves the court for an award of attorney's fees. . . . The court agrees with DHS that resolution of this issue is premature . . .") (internal citations omitted); Quick v. U.S. Dept. of Commerce, Nat'l Inst. of Standards & Tech., 775 F. Supp. 2d 174, 183 (D.D.C. 2011) (finding summary judgment motion for attorneys' fees premature where plaintiff sought judgment that he be "deemed to have 'substantially prevailed' . . . because [the agency] produced records responsive to his request after the commencement of the instant action"); see also Campbell v. U.S. Dep't of Justice, 164 F.3d 20, 37 n. 18 (D.C. Cir. 1998) 164 F.3d 20, 37 n.18 (D.C. Cir. 1998) (finding "discussion of attorney's fees is premature" when substantive issues remained in FOIA case); Hussain v. U.S. Dep't of Homeland Sec., 674 F. Supp. 2d 260, 272-73 (D.D.C. 2009) ("In light of the Court's conclusion that, at this stage, final judgment is not appropriate for either party, and because plaintiff has not articulated any need for an interim award of fees, the Court concludes that plaintiff's attorneys' fees motion is premature."); Wheeler v. Exec. Office of U.S. Attorneys, No. 05-1133, 2008 WL 178451, *7 (D.D.C. Jan. 17, 2008) (finding that request for attorney's fees was premature when substantive issues remained in FOIA case).

Moreover, EPIC's fee petition is premature because the record does not contain sufficient information to justify an award of fees. In support of its argument for eligibility for attorneys' fees, EPIC asserts, based entirely on the fact that it obtained its responsive documents subsequent to its filing suit, that its litigation created a "voluntary or unilateral change in position by the agency." 5 U.S.C. § 552(a)(4)(E)(ii). Pl.'s Mem. at 15. Yet, to prevail under this "catalyst theory," a plaintiff must show "something more than post hoc, ergo propter hoc" -- i.e., that the release came after the institution of the lawsuit. See Church of Scientology of Cal. v. Harris, 653 F.2d 584, 588 (D.C. Cir. 1981). "Instead, the party seeking such fees in the absence of a court order must show that prosecution of the action could reasonably be regarded as necessary to obtain the information and that a causal nexus exists between that action and the agency's surrender of the information." Id. (citations omitted). Thus, the simple chain of events recited by EPIC in its brief does not make it eligible for fees.

Additionally, in order to establish its entitlement to fees, EPIC must further show that the balance of four factors – "(1) the public benefit derived from the case; (2) the commercial benefit to the plaintiff; (3) the nature of the plaintiff's interest in the records; and (4) the reasonableness of the agency's withholding of the requested documents" – tip in its favor. Davy, 550 F.3d at 1159. Although EPIC argues in its brief that these factors have been met, an evaluation of the first and fourth factors – the public benefit derived from the case and the reasonableness of DHS's withholdings – will necessarily depend on how the Court resolves the merits of the instant summary judgment motion. See id (stating that the "Court will not assess [attorney's] fees when the agency has demonstrated that it had a lawful right to withhold disclosure.")

Accordingly, DHS asks that the Court deny EPIC's request for judgment on the issues of eligibility and entitlement to fees and costs as premature.³

CONCLUSION

The Court should grant Defendant's Motion for Summary Judgment and deny Plaintiff's Cross-Motion for Summary Judgment.

Date: October 26, 2012

Respectfully submitted,

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³ To the extent that the Court agrees with EPIC that the issues of eligibility and/or entitlement to attorneys' fees are ripe for review now, DHS respectfully requests that the Court issue an Order for full briefing on the merits of EPIC's requests for fees and costs. DHS is prepared to present evidence on the issue of EPIC's eligibility and entitlement, including, inter alia, a complete chronology of DHS's search efforts prior to and subsequent to EPIC's institution of litigation, and would do so expeditiously if the Court so ordered.

This Vaughn Index includes descriptions of the following productions:

First Interim Response – Items [1] thru [5]

[1] Contract Docs from OPS	Total Pages:	100
[2] SNMC Analyst Handbook	Total Pages:	107
[3] SNMC Policy Resources	Total Pages:	27
[4] SNMC OPS	Total Pages:	60
[5] USCIS Documents	<u>Total Pages:</u>	<u>46</u>
	Total Pages:	340

Second Interim Response – Item [6]

[6] Analysts Desk Binder	<u>Total Pages:</u>	<u>39</u>
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KEY:

WIF: Withheld in Full

RIF: Released in Full

PR: Partially Released/Partially Redacted

**FIRST INTERIM RESPONSE
 ITEM I: CONTRACT DOCUMENTS (100 TOTAL PAGES)**

DOCUMENT 1	DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010 Task/Delivery Order
PAGES	Of 7 Pages Total, 4 are Released in Full and 3 are Partially Released
EXEMPTION STATUS	FOIA Exemption b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document establishes the Contracting Officer's Technical Representative (COTR) for the contract.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 2	Solicitation/Contract/Order for Commercial Item Contract No GS-10F-0237L
PAGES	Of 14 Pages Total, 6 are Released in Full and 8 are Partially Released

EXEMPTION STATUS	FOIA Exemptions b(4), b(6)
REDACTION CATEGORY	PII; Commercial Information including contract pricing information and other financial information related to general and administrative rates, labor hours, and rates.
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document provides the details of the acquisition awarded to General Dynamic Advanced Information Systems and is issued by DHS Office of Procurement Operations.</p> <p>DHS applied the (b)(4) exemption by redacting the commercial information protected by trade secret and commercial or financial information obtained from a person that is privileged or confidential. Release of contract rates could result in substantial harm to the competitive process.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal identifiable information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 3	Attachment 1 Statement of Work
PAGES	Of 11 total pages, 11 pages are Released in Full
DOCUMENT 4	Determination and Findings
PAGES	Of 2 pages total, 1 is Released in Full and 1 is Partially Released

EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document grants authority to the DHS Office of Procurement Operations to award a new task order (contract) for media monitoring and social media/networking support services.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 5	Determination and FindingsGS-10F-0237L/ HSHQDC-10-F-00080
PAGES	Of 3 pages total, 1 is Released in Full and 2 are Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII

JUSTIFICATION/DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document grants authority to the DHS Office of Procurement Operations to award a new task order (contract) for media monitoring and social media/networking support services.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 6	Sample: Proposal Evaluation Plan
PAGES	Of 3 pages total, 2 are Released in Full and 1 is Partially Released
EXEMPTION STATUS	FOIA Exemptions b(4)
REDACTION CATEGORY	Commercial Information including contract pricing information and other financial information related to general and administrative rates, labor hours, and rates.
JUSTIFICATION/DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010.</p> <p>DHS applied the (b)(4) exemption by redacting the commercial information protected by trade secret and commercial or financial information obtained from a person that is privileged or confidential. Release of contract rates could result in substantial harm to the competitive process.</p>

DOCUMENT 7	Unit Price
PAGES	Of 1 page total, 1 page is Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(4)
REDACTION CATEGORY	Commercial Information including contract pricing information and other financial information related to general and administrative rates, labor hours, and rates.
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010.</p> <p>DHS applied the (b)(4) exemption by redacting the commercial information protected by trade secret and commercial or financial information obtained from a person that is privileged or confidential. Release of contract rates could result in substantial harm to the competitive process.</p>
DOCUMENT 8	Market Research Report
PAGES	Of 8 total pages, 6 are Released in Full and 2 are Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII

JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010.</p> <p>DHS applied the (b)(6)exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual’s privacy.</p>
DOCUMENT 9	Attachment 1 Statement of Work
PAGES	Of 5 total pages, 5 pages are Released in Full
DOCUMENT 10	Requisition
PAGES	2 pages Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual’s privacy.</p>

DOCUMENT 11	Solicitation/Contract/Order for Commercial Item Solicitation Number HSHQDC-10-Q-00005
PAGES	Of 20 total pages, 13 are Released in Full and 7 are Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 12	Attachment 1 Statement of Work
PAGES	Of 11 total pages, 11 pages are Released in Full
DOCUMENT 13	Past Performance Questionnaire HSHQDC-10-Q-00005

PAGES	Of 5 total pages, 5 pages are Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document provides information on past performance of competitors for the subject contract.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 14	Award Decision Memorandum RFQ HSHQDC-10-Q-00005
PAGES	4 Pages Partially Released
EXEMPTION STATUS	FOIA Exemptions b(3), b(4), b(6)
REDACTION CATEGORY	PII; Commercial Information including contract pricing information and other financial information related to general and administrative rates, labor hours, and rates.

<p>JUSTIFICATION/ DESCRIPTION</p>	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document authorizes the award of the contract.</p> <p>DHS applied the (b)(3) exemption by redacting contract information pursuant to Section 253b(m) of Title 41, United States Code, which prohibits the release of any competitive proposal under the FOIA, except for those portions of the proposal set forth or incorporated by reference in a government contract. Since the statute leaves the agency with no discretion, DHS determined that all sections of the contractor proposal which were required to be submitted, and which were not incorporated into the contract, must be withheld under subsection (b)(3) of the FOIA.</p> <p>DHS applied the (b)(4) exemption by redacting the commercial information protected by trade secret and commercial or financial information obtained from a person that is privileged or confidential. Release of contract rates could result in substantial harm to the competitive process</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
<p>DOCUMENT 15</p>	<p>Determination and Findings GS-10F-0237L/HSHQDC- 10-F-00080</p>
<p>PAGES</p>	<p>Of 4 total pages, 4 pages are Partially Released</p>
<p>EXEMPTION STATUS</p>	<p>FOIA Exemptions b(6)</p>
<p>REDACTION CATEGORY</p>	<p>PII</p>

JUSTIFICATION/DESCRIPTION	<p>This document is part of the contract processing file for DHS Office of Procurement Operations Agreement/Contract number HSHQDC-10-00080 awarded to General Dynamic Advanced Information Systems effective 12/15/2010. This document grants authority to the DHS Office of Procurement Operations to award a new task order (contract) for media monitoring and social media/networking support services.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
<p>FIRST INTERIM RESPONSE ITEM 2: SNMC ANALYST HANDBOOK (107 TOTAL PAGES)</p>	
DOCUMENT 16	Social Networking/Media Capability Analyst Handbook February 2010
PAGES	Of 107 total pages, 22 are Withheld in Full (pages 22-43), 69 are Released in Full and 16 are Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(5), b(6), b7(c), b7(e)
REDACTION CATEGORY	PII; Deliberative Draft; Law enforcement investigative procedures(personal privacy); Law enforcement investigative procedures (disclose techniques and/or procedures for law enforcement investigations).

<p>JUSTIFICATION/ DESCRIPTION</p>	<p>This document is an internal handbook providing reference material and guidance regarding how the Office of Operations Coordination and Planning (OPS), National Operations Center (NOC), will engage in social media monitoring and situational awareness.</p> <p>DHS applied the (b)(5) exemption by withholding in full the entire 22 pages of the Draft Concept of Operations (CONOPS) Social Networking/Media Capability Version 2.2 February 23, 2010 contained in the internal handbook. The CONOPS is a document describing the characteristics of the proposed system from the viewpoint of the users of the system.</p> <p>The document is deliberative because it is a draft document that is pre-decisional. The information in the document reflects the opinions of the agency employees involved in developing the proposed system. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain law enforcement personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the b(7)(c) exemption by redacting the names of third parties and agency law enforcement personnel and other contact information in law enforcement records. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p> <p>DHS applied the 7(e) exemption by redacting law enforcement passwords, codes and other access information. This information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence</p>
<p>FIRST INTERIM RESPONSE ITEM 3: SNMC POLICY RESOURCES (27 PAGES)</p>	
<p>DOCUMENT 17</p>	<p>Social Networking/Media Capability Resources for Privacy Issues February 2010 and Sensitive Systems Handbook v.2 Draft January 7, 2010</p>
<p>PAGES</p>	<p>Of 27 total pages, 1 page is Released in Full and 26 pages are Withheld in Full.</p>

EXEMPTION STATUS	FOIA Exemptions b(5)
REDACTION CATEGORY	Deliberative Draft
JUSTIFICATION/ DESCRIPTION	<p>This document is an internal draft handbook regarding how the Office of Operations Coordination and Planning (OPS), National Operations Center (NOC), will engage in social media monitoring and situational awareness. Specifically, the document contains draft information provided in support of handling processes and procedures for information contained in sensitive systems at DHS. The purpose of the document is to issue implementation guidance under the authority of the Chief Information Officer through the Office of the Chief Information Security Officer (CISO). The scope of the guidance includes the use of social media technologies hosted outside of the federal government servers, and individual user’s responsibilities when accessing social media services either inside or outside federal servers.</p> <p>DHS applied the (b)(5) exemption to protect internal agency deliberative information related to the development and use of processes and procedures for handling sensitive systems, including technical specifications. Disclosure of deliberative material regarding processes and procedures would have the effect of discouraging open, frank discussions on matters of policy between subordinates and superiors; encouraging premature disclosure of proposed policies before they are finally adopted; and producing public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action in the handling of sensitive systems.</p>
<p>FIRST INTERIM RESPONSE ITEM 4: SNMC OPS (60 TOTAL PAGES)</p>	
DOCUMENT 18	Social Network/Media Capability (SNMC) Battle Rhythm Version 11 23 March 2011
PAGES	Of 17 total pages, 12 pages are Released in Full and 5 pages are Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(6), b7(e)

REDACTION CATEGORY	PII; Law enforcement investigative procedures (disclose techniques and/or procedures)
JUSTIFICATION/ DESCRIPTION	<p>This document contain internal guidance and training resources regarding how the Office of Operations Coordination and Planning (OPS), National Operations Center (NOC), will engage in social media monitoring and situational awareness. Specifically, the Battle Rhythm is a document that describes the sequencing and execution of actions and events within operations related to the flow and sharing of information that support all decision cycles.</p> <p>DHS applied the (b)(6) exemption the names of law enforcement and certain other personnel , their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the 7(e) exemption by redacting law enforcement passwords, codes and other access information. This information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence information which could result in tampering or other manipulation of information which could inhibit investigative efforts.</p> <p>OPS and the NOC collect records in systems used for domestic situational awareness, law enforcement, intelligence, emergency response, private sector, and open- source reporting purposes. Many of the records maintained by OPS and the NOC are compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions.</p>
DOCUMENT 19	Draft Inadvertent PII Inclusion Procedure (External)
PAGES	Of 2 total pages, 2 pages are Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII

JUSTIFICATION/DESCRIPTION	<p>This document describes the procedure to be implemented in the event of an inadvertent PII inclusion in Media Monitoring Capability (MMC) reports. This guidance provides for compliance with the Personally Identifiable Information (PII) guidance and rules.</p> <p>DHS applied the (b)(6) exemption by redacting names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 20	Inadvertent PII Inclusion Procedure (Internal)
PAGES	Of 1 total page, 1 Page is Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/DESCRIPTION	<p>This document describes the procedure to be implemented in the event of an inadvertent PII inclusion in Media Monitoring Capability (MMC) reports. This guidance provides for compliance with the Personally Identifiable Information (PII) guidance and rules.</p> <p>DHS applied the (b)(6) exemption by redacting names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 21	New PIA Revisions 7 Jan11
PAGES	Of 2 total pages, 1 page is Released in Full and 1 page is Partially Released.

EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document is a Privacy Impact Assessment (PIA) conducted by OPS pursuant to the ability of OPS analysts to collect and disseminate PII for certain narrowly tailored categories which are described in the document.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 22	NOC Media Monitoring Capability Privacy Proficiency Exam (Answer Key)
PAGES	Of 7 total pages, 7 pages are Released in Full
DOCUMENT 23	MMC-SN Overarching PIA Implementation CONOPS
PAGES	Of 3 total pages, 1 page is Released in Full and 2 pages are Partially Released 2 PR
EXEMPTION STATUS	FOIA Exemptions b(6), b7(e)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (disclose techniques and/or procedures)

<p>JUSTIFICATION/ DESCRIPTION</p>	<p>This document provides step-by-step instructions on the implementation of the guidance and processes in the Media Monitoring Center/Social Networking Concept of Operations.</p> <p>DHS applied the (b)(6) exemption by redacting the names of law enforcement and certain other personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the 7(e) exemption by redacting law enforcement passwords, codes and other access information. This information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence information which could result in tampering or other manipulation of information which could inhibit investigative efforts. OPS and the NOC collect records in systems used for domestic situational awareness, law enforcement, intelligence, emergency response, private sector, and open-source reporting purposes. Many of the records maintained by OPS and the NOC are compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions.</p>
<p>DOCUMENT 24</p>	<p>SNMC Training Plan Version 1 March 2011</p>
<p>PAGES</p>	<p>Of 12 total pages, 4 pages are Released in Full and 8 pages are Partially Released.</p>
<p>EXEMPTION STATUS</p>	<p>FOIA Exemptions b(6), b7(e)</p>
<p>REDACTION CATEGORY</p>	<p>PII Law enforcement investigative procedures (disclose techniques and/or procedures)</p>

<p>JUSTIFICATION/ DESCRIPTION</p>	<p>This document is a training plan that describes the training strategies, activities and methods used to provide new staff with an understanding of the role of the Media Monitoring Center’s New Media Capability, also referred to as Social Networking Media Capability or Social Networking.</p> <p>DHS applied the (b)(6) exemption by redacting the names of law enforcement and certain other personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual’s privacy.</p> <p>DHS applied the 7(e) exemption by redacting law enforcement passwords, codes and other access information. This information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence information which could result in tampering or other manipulation of information which could inhibit investigative efforts. OPS and the NOC collect records in systems used for domestic situational awareness, law enforcement, intelligence, emergency response, private sector, and open-source reporting purposes. Many of the records maintained by OPS and the NOC are compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions.</p>
<p>DOCUMENT 25</p>	<p>Interim Guidance Regarding PII and Reference to Government Spokespersons and Non-US Citizen Terrorist or DTO Leaders Mon 8/30/2010</p>
<p>PAGES</p>	<p>Of 1 total page, 1 page is Partially Released.</p>
<p>EXEMPTION STATUS</p>	<p>FOIA Exemptions b(6)</p>
<p>REDACTION CATEGORY</p>	<p>PII</p>

JUSTIFICATION/ DESCRIPTION	<p>This document provides guidelines regarding social networking reports and references to government spokespersons and non-U.S. citizen/U.S. citizen terrorists and DTO leaders.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 26	Interim MMC Personal Identifiable Information (PII) Guidance Thu 9/2/2010
PAGES	Of 2 total pages, 1 page is Released in Full and 1 page is Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document provides interim guidelines for both traditional and new media MMC regarding integration of additional operational scenario guidance and direction in the Privacy Impact Assessment.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 27	Interim MMC Personal Identifiable Information (PII) Guidance Thu 9/3/2010
PAGES	Of 2 total pages, 1 page is Released in Full and 1 Page is Partially Released.

EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document provides interim guidelines for both traditional and new media MMC regarding integration of additional operational scenario guidance and direction in the Privacy Impact Assessment.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 28	COP Update change due to PII rules Thu 9/30/2010 12:19 PM
PAGES	Of 1 total page, 1 page is Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document provides for a course of action until changes are made on the Privacy Impact Assessment (PIA) regarding updates posted to the shared network.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>

DOCUMENT 29	MMC Application Training and Implementation Timeline
PAGES	Of 2 total pages, 2 pages are Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6), b7(e)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (disclose techniques and/or procedures)
JUSTIFICATION/ DESCRIPTION	<p>This document provides a schedule and agenda for training.</p> <p>DHS applied the (b)(6) exemption by redacting the names of law enforcement and certain other personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the 7(e) exemption by redacting law enforcement passwords, codes and other access information. This information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence information which could result in tampering or other manipulation of information which could inhibit investigative efforts. OPS and the NOC collect records in systems used for domestic situational awareness, law enforcement, intelligence, emergency response, private sector, and open-source reporting purposes. Many of the records maintained by OPS and the NOC are compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions.</p>
DOCUMENT 30	VERSION 2 Updated Guidance to: MMC Watch Standers and Senior Reviewers to Increase the Focus on Operationally Valuable Media Reporting

PAGES	Of 7 total pages, 5 pages are Released in Full and 2 pages are Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(6), b7(e)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (disclose techniques and/or procedures)
JUSTIFICATION/ DESCRIPTION	<p>This document provides guidance on ‘standing critical information requirements (CIRs) and the NOC Priorities and Monitoring Report which are generally issues multiple times daily.</p> <p>DHS applied the (b)(6) exemption by redacting the names of law enforcement and certain other personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual’s privacy.</p> <p>DHS applied the 7(e) exemption by redacting law enforcement passwords, codes and other access information. This information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence information which could result in tampering or other manipulation of information which could inhibit investigative efforts. OPS and the NOC collect records in systems used for domestic situational awareness, law enforcement, intelligence, emergency response, private sector, and open-source reporting purposes. Many of the records maintained by OPS and the NOC are compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions.</p>
DOCUMENT 31	Exercises
PAGES	Of 1 total page, 1 page is Partially Released

EXEMPTION STATUS	FOIA Exemptions b(6)
REDACTION CATEGORY	PII
JUSTIFICATION/ DESCRIPTION	<p>This document provides a training exercise for analysts.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p>
DOCUMENT 32	Various emails beginning with Wednesday, April 22, 2009 10:28 pm re Access to Open Source Information
PAGES	Of 32 total pages, 2 pages are Released in Full and 30 pages are Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6), b7(c)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (personal privacy);
JUSTIFICATION/ DESCRIPTION	<p>These documents are internal-agency emails between OPS program officials. These emails contain information regarding the use of social media information, specifically information available on open source networks. These emails include information compiled for law enforcement purposes and/or information regarding law enforcement procedures.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel, their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the b(7)(c) exemption by redacting the names of third parties and law enforcement personnel and other contact information in law enforcement records. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p>

FIRST INTERIM RESPONSE ITEM 5: USCIS DOCUMENTS (46 TOTAL PAGES)	
DOCUMENT 33	September 00, 2009 Draft Memorandum Re Guidelines for Use of Remote Retrievable Disposable Desktop (RRDD)
PAGES	Of 2 total pages, 2 pages are Withheld in Full.
EXEMPTION STATUS	FOIA Exemptions b(5)
REDACTION CATEGORY	Deliberative Draft
JUSTIFICATION/ DESCRIPTION	<p>This document is a draft memorandum analyzing and providing guidelines for use of Remote Retrievable Disposable Desktop (RRDD), otherwise known as R2D2). The Office of Fraud Detection and National Security (FDNS) and the National Security and Records Verification (NSRV) IT Program Executive Offices (NSRV IT PEO) worked with the Office of Information Technology to create an enterprise solution that allows USCIS Officers with Mission Need Access to websites that are critical to the FDNS mission.</p> <p>DHS applied the (b)(5) exemption to protect internal agency deliberative information related to the development and use of processes and procedures related to Remote Retrievable Disposable Desktop. It is important, when creating agency processes and procedures related to access to sensitive information and protection of sensitive information that open, frank discussions on matters of policy are encouraged, that premature disclosure of proposed policies before they are finally adopted is protected against and that public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action is avoided.</p>
DOCUMENT 34	Email chain containing emails relating to email of Thursday, May 7, 2009 7:10pm regarding DHS Open Source Response to DHS RFI-461-CR-09-CIS.

PAGES	Of 20 total pages, 20 pages are Partially Released.
EXEMPTION STATUS	FOIA Exemptions b(6), b7(c)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (personal privacy);
JUSTIFICATION/ DESCRIPTION	<p>These documents are internal-agency emails between OPS program officials. These emails contain information regarding the use of social media information available on open source networks related to investigations and adjudications of immigration cases. These emails include information compiled for law enforcement purposes and/or information regarding law enforcement procedures.</p> <p>DHS applied the (b)(6) exemption by redacting the names of law enforcement personnel , their email tracking information, and other personal contact information. DHS applied the b(7)(c) exemption by redacting the names of third parties and other contact information in law enforcement records.. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy. □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, DHS determined that the privacy interest in the identities of individuals in the records requested clearly outweigh any minimal public interest in disclosure of the information.</p>
DOCUMENT 35	DHS Intelligence RFI Submission Form
PAGES	Of 3 total pages, 3 are Withheld in Full
EXEMPTION STATUS	FOIA Exemptions b(6), b7(c)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (personal privacy);

JUSTIFICATION/ DESCRIPTION	<p>This document is an internal reporting form for intelligence information. This form is used only for unclassified information and is used to submit Requests for Information related to intelligence. This particular document, while perhaps being used as a sample, is populated (as opposed to a blank template) and contains detailed information regarding particular persons related to law enforcement and possibly law enforcement investigations.</p> <p>DHS applied the (b)(6) and b(7)(c) exemptions by redacting the names of law enforcement and certain other personnel, their email tracking information, and other personal contact information, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p> <p>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, DHS determined that the privacy interest in the identities of individuals in the records requested clearly outweigh any minimal public interest in disclosure of the information.</p>
DOCUMENT 36	Email May 21, 2008 Re Social Networking Sites
PAGES	Of 1 total pages, 1 is Partially Released
EXEMPTION STATUS	FOIA Exemptions b(6), b7(c)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (personal privacy);

JUSTIFICATION/ DESCRIPTION	<p>This document is an internal-agency emails between OPS program officials. These emails contain information regarding the use of social media information, including information compiled for law enforcement purposes and/or information regarding law enforcement procedures.</p> <p>DHS applied the (b)(6) exemption by redacting the names of certain personnel , their email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual’s privacy.</p> <p>DHS applied the b(7)(c) exemption by redacting the names of third parties and law enforcement personnel and other contact information in law enforcement records. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p> <p>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, DHS determined that the privacy interest in the identities of individuals in the records requested clearly outweigh any minimal public interest in disclosure of the</p>
DOCUMENT 37	Social Networking Sites and Their Importance to FDS
PAGES	Of the 5 total pages, 2 pages are Released in Full and 3 pages are Withheld in Full.
EXEMPTION STATUS	FOIA Exemptions b(6), b(7)(c)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (personal privacy);

<p>JUSTIFICATION/ DESCRIPTION</p>	<p>This document is an internal information memo providing background and resources relevant to the use of social networking sites for the detection of fraud. The pages that are withheld in full are redacted in order to protect names and other identifying information of real life individuals used, for this purpose, as examples of fraud situations.</p> <p>DHS applied the (b)(6) exemption by redacting the names of lower level employees, email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the b(7)(c) exemption by redacting the names of third parties and law enforcement personnel and other contact information in law enforcement records. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p> <p>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, DHS determined that the privacy interest in the identities of individuals in the records requested clearly outweigh any minimal public interest in disclosure of the information.</p>
<p>DOCUMENT 38</p>	<p>Email chain dated October 26, 2009 re Anonymous Web Surfing and Open Source Unfettered Access</p>
<p>PAGES</p>	<p>Of 15 total pages, 15 pages are Partially Released.</p>
<p>EXEMPTION STATUS</p>	<p>FOIA Exemptions b(6), b(7)(c)</p>
<p>REDACTION CATEGORY</p>	<p>PII; Law enforcement investigative procedures (personal privacy)</p>

JUSTIFICATION/ DESCRIPTION	<p>These documents are internal-agency emails between OPS program officials. These emails contain information regarding the use of social media information, including information compiled for law enforcement purposes and/or information regarding law enforcement procedures.</p> <p>DHS applied the b(6) exemption by redacting the names of law enforcement personnel, email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the b(7)(c) exemption by redacting the names of third parties and other contact information in law enforcement records. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p> <p>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, DHS determined that the privacy interest in the identities of individuals in the records requested clearly outweigh any minimal public interest in disclosure of the information.</p>
<p>SECOND INTERIM RESPONSE</p> <p>ITEM 6: ANALYST'S DESKTOP BINDER 2011 (39 TOTAL PAGES)</p>	
DOCUMENT 39	VERSION 2 Updated Guidance to: MMC Watch Standers and Senior Reviewers to Increase the Focus on Operationally Valuable Media Reporting
PAGES	Of the 39 total pages, 24 pages are Released in Full and 15 pages are Released Partially.
EXEMPTION STATUS	The FOIA Exemptions claimed are b(6), b(7)(c) and b(7)(e)
REDACTION CATEGORY	PII; Law enforcement investigative procedures (personal privacy); Law enforcement investigative procedures (disclose techniques and/or procedures for law enforcement investigations).

JUSTIFICATION/ DESCRIPTION	<p>This document is a reference binder providing internal agency guidance regarding the use of social media to facilitate collaboration and information sharing inside and outside the agency. This document contains eight sections that contain specific agency procedures and guidance related to reporting incidents, handling Personally Identifiable Information (PII), conducting operations procedures, retrieving NOC priorities from the Homeland Security Information Network (HSIN), utilizing the audio video system, and accessing the HSIN Jabber network.</p> <p>DHS applied the (b)(6) exemptions by redacting the names of law enforcement personnel, email tracking information, and other personal contact information. Releasing this information would constitute an unwarranted invasion of the individual's privacy.</p> <p>DHS applied the b(7)(c) exemption by redacting the names of third parties and other contact information in law enforcement records. Releasing this information could reasonably be expected to constitute an unwarranted invasion of personal privacy.</p> <p>DHS applied the (b)(7)(e) exemption by redacting law enforcement passwords, codes and other access information that could reasonably be expected to risk circumvention of the law were they disclosed. Exemption 7(E) affords protection to all law enforcement information that would disclose techniques and 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. Providing the information necessary to access classified and other sensitive systems would put these systems and the law enforcement information they contain at risk. In this binder, this information is contained within checklists that are used as tools for the user to access the databases and law enforcement computer system(s) being used. DHS determined that disclosure of law enforcement systems access checklists could reasonably be expected to risk circumvention of the law since the disclosure of this information would allow unauthorized access to intelligence information which could result in tampering or other manipulation of information which could inhibit investigative efforts.</p>
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)
ELECTRONIC PRIVACY INFORMATION)
CENTER,)
)
Plaintiff,)
)
v.)
)
)
THE UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY,)
)
Defendant.)
_____)

Civil Action No. 1:11-cv-02261-JDB

SUPPLEMENTAL DECLARATION OF JAMES HOLZER

I, James V.M.L. Holzer, I, declare and state as follows:

1. This Declaration hereby incorporates by reference the information provided in my Declaration executed on July 31, 2012 and submitted to this Court.

2. The purpose of this Supplemental Declaration is to provide the Court with information regarding the submission of the DHS Updated Vaughn Index.

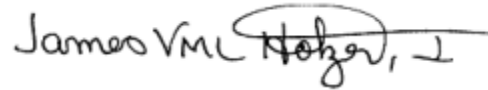
3. In response to Plaintiff’s Memorandum of Points and Authorities in Opposition to Defendant’s Motion for Summary Judgment and in Support of Plaintiff’s Cross-Motion for Summary Judgment, DHS reviewed the Vaughn Index submitted to this Court on August 1, 2012.

4. While our review resulted in a finding that the original Vaughn Index was sufficient, we also felt that the original Vaughn Index could be made clearer to the reader. As a result, we updated the Vaughn Index to reflect the following changes:

- (1) Reorganization with numbered documents and simpler category headings;
- (2) More detailed descriptions of certain documents whose titles did not plainly describe the content of the document;
- (3) More detailed justifications for withholdings on documents that were withheld in full; and
- (4) More detailed justifications for withholding of commercial information pursuant to FOIA Exemption (b)(4).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of October 2012.

A handwritten signature in black ink that reads "James V.M.L. Holzer, I". The signature is written in a cursive style with a horizontal line extending to the right from the end of the name.

James V.M.L. Holzer, I

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
ELECTRONIC PRIVACY INFORMATION)	
CENTER)	
)	
Plaintiff,)	
)	
v.)	Civ. Action No. 1:11-cv-02261-JDB
)	
UNITED STATES DEPARTMENT OF)	
HOMELAND SECURITY,)	
)	
Defendant.)	
_____)	

DECLARATION OF BRADY J. MILLS
SPECIAL AGENT IN CHARGE
LIAISON DIVISION AND
FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER
UNITED STATES SECRET SERVICE

I, Brady Mills, hereby make the following declaration to provide additional information in support of Defendant’s Motion for Summary Judgment:

1. I am the Special Agent in Charge (SAIC) of the Liaison Division, Office of Government and Public Affairs and the Freedom of Information Act and Privacy Act (FOIA/PA) Officer for the United States Secret Service (“Secret Service”), Department of Homeland Security (“DHS”). I have been employed with the Secret Service as a Special Agent (GS-1811) since June 23, 1986, and have served as the Secret Service FOIA/PA Officer since October 9, 2012.

2. I am aware that the former Acting SAIC of the Liaison and Acting FOIA/PA Officer, Special Agent Julie Farrell, previously submitted a declaration in this litigation, dated July 31, 2012, detailing the Secret Service’s receipt and processing of Plaintiff’s FOIA request,

describing the responsive records released with redactions or withheld in their entirety, identifying the exemptions invoked in withholding such information, and explaining the segregability analysis that was conducted. Acting FOIA/PA Officer Farrell also provided a *Vaughn* index.

3. I have been informed that the Plaintiff has challenged the Secret Service's withholding in full of seven (7) records. I have been informed that the Plaintiff has argued that the Secret Service has not released all segregable portions of those seven records. The records at issue are: Document 4, Document 5, Document 6, Document 10, Document 12, Document 13, and Document 16.

4. I have reviewed the declaration and *Vaughn* index submitted by Acting FOIA/PA Officer Farrell, as well as the seven records challenged by the Plaintiff. The Secret Service continues to maintain that these records should continue to be withheld in their entirety.

5. This declaration provides additional information on the seven records challenged by Plaintiff, including the exemptions claimed and the segregability analysis performed with respect to those records.

Document 4 (USSS-000015-25)

6. This record is an eleven page contract with an order date of March 28, 2007. The contract is being withheld in full under exemptions (b)(7)(E), (b)(6), and (b)(7)(C).¹

7. The contract as a whole pertains to proposed modifications to sensitive software utilized in protective intelligence operations and investigations and, therefore, this information is being withheld pursuant to exemption (b)(7)(E). Pieces of information, such as standardized clausal language, sentence fragments, basic information such as street address and order number,

¹ Exemption (b)(4) was also claimed for this record; however, the citation to this exemption was erroneous and inadvertent and is no longer being asserted.

and a few generalized sentences regarding period of performance, could be segregated and released. However, such bits of information have minimal or no value, either separately or taken together. Segregated from the remainder of the contract, these few sentences and sentence fragments, form information, and generic contract language have no informational context related or responsive to Plaintiff's FOIA request and, in some instances, are nonsensical without that context. This information is therefore not reasonably segregable.

8. Additionally, personal privacy information in the form of names and phone numbers of Secret Service personnel is being withheld from the contract under exemptions (b)(6) and (b)(7)(C).

Document 5 (USSS-000026-47)

9. This record is a twenty-two page contract packet with an order date of March 19, 2008, consisting of a nine-page contract form and a thirteen-page statement of work. This contract packet is being withheld in full pursuant to exemptions (b)(7)(E), (b)(6), (b)(7)(C), and (b)(4).

10. The contract contains descriptions of proposed modifications to Secret Service critical systems used as part of the Agency's protective intelligence function. The statement of work was prepared specifically for the Secret Service and the document as a whole describes the work to be performed by the contractor to enhance the capabilities of systems used in protective intelligence, including information on various Secret Service databases and details of system functionality. The contract form also contains information regarding the proposed modifications. This information is being withheld under exemption (b)(7)(E).

11. The third party contractor considers data included in the statement of work as proprietary and confidential commercial information. Furthermore, the Secret Service considers

certain financial information regarding pricing to be confidential commercial information because releasing such information, in the Agency's estimation, would discourage third parties from participating in Secret Service-sponsored projects, thereby impeding the Agency's development efforts. This financial information, found on three pages of the statement of work, is being withheld under exemption (b)(4).

12. While pieces of information on the contract form, such as generic or standardized clausal language, could be segregated and released, such generic contract clauses have minimal or no informational content related or responsive to Plaintiff's FOIA request, either separately or taken together. Additionally, though one page of the Statement of Work could have been redacted, once exempt information was removed, all that would remain is a page containing the words "Statement of Work Proprietary and Confidential" and the page number. This information in the contract packet is, therefore, not reasonably segregable.

13. Additionally, personal privacy information in the contract packet, in the form of names and phone numbers of Secret Service personnel, and the names, e-mail addresses and phone numbers of third parties, is being withheld under exemptions (b)(6) and (b)(7)(C).

Document 6 (USSS-000048-69)

14. This record is a twenty-two page, July 27, 2009, contract packet. This contract packet has been withheld in full pursuant to exemptions (b)(7)(E), (b)(6), (b)(7)(C), and (b)(4).

15. The contract packet consists of a seven-page contract form, as well as several pages of associated documents that were prepared specifically for the Secret Service. These documents provided information regarding the resources and support necessary to implement and sustain a system utilized to identify, analyze, and investigate potential threats against Secret Service protectees. The contract as a whole contains information regarding this protective

intelligence system and is thus being withheld pursuant to exemption (b)(7)(E). While pieces of information on the contract form, such as generic or standardized clausal language or sentence fragments, could be segregated and released, such generic contract clauses have minimal or no informational context related or responsive to Plaintiff's FOIA request when taken from the whole. Such fragments of information have minimal to no usefulness and are not reasonably segregable.

16. Furthermore, the third party contractor considers certain financial data found in this contract as proprietary and confidential commercial information. The Secret Service also considers certain financial information found in this contract regarding pricing to be confidential commercial information because releasing such information would discourage third parties from participating in Secret Service-sponsored projects. This financial information, distributed over five pages of the contract packet, is being withheld under exemption (b)(4).

17. Additionally, personal privacy information in the contract packet, in the form of names and phone numbers of Secret Service personnel, and the name, e-mail address and phone number of a third party, is being withheld under exemptions (b)(6) and (b)(7)(C).

Document 10 (USSS-000077-98)

18. This record is a twenty-two page power point presentation dated January 2010 entitled "United States Secret Service, Cyveillance Overview." The presentation is being withheld in full under exemptions (b)(7)(E), (b)(6) and (b)(7)(C).

19. This presentation was prepared specifically for the Secret Service to detail what services the contractor could provide to the Agency in support of the its protective mission. The presentation as a whole reveals information about the Agency's protective intelligence techniques and contains details regarding a system to be utilized in identifying, analyzing, and

investigating threats against Secret Service protectees, including its functionality. This presentation, as a whole, is therefore being withheld in full pursuant to exemption (b)(7)(E).

20. The first page of the presentation, which contains company logo and the date and title of the presentation as described in paragraph 18, above, and the last page of the presentation, which contains the company logo and the phrase "Q&A – Next Steps", do not contain exempt information. While the first and last page could have been released, given that they contain such minimal information, information that is useless without additional context, these bits were not considered reasonably segregable.

21. Additionally, one page of the presentation also contains personal privacy information in the form of the name, e-mail address and phone number of a third party, which is being withheld under exemptions (b)(6) and (b)(7)(C).

Document 12 (USSS-000103-105) & Document 13 (USSS-000106-108)

22. These records are a September 2011 e-mail chain involving Agency employees and a contractor, with an attached two-page contract modification. Document 13 is the email received in response to Document 12, attaching the executed contract modification. The cover emails of both documents were released with redactions. The attached two-page contract modifications are being withheld in full under exemptions (b)(7)(E), (b)(6) and (b)(7)(C).

23. The contract modification describes the changes to be made to a system utilized by the Secret Service to identify, analyze, and investigate threats against Secret Service protectees and is, therefore, being withheld pursuant to exemption (b)(7)(E). The modification is a standard form. While portions of the standard form, such as street addresses, order number, and similar basic information, general sentences or sentence fragments, and standardized contract language, could be released, divorced from the document as a whole and without the

context of what the contract modifications are, such information would be of minimal use or value.

24. The names and contact information of Secret Service personnel and/or of a third party are on both pages of the contract modification and that information is being withheld pursuant to exemptions b)(6) and (b)(7)(C).

Document 16 (USSS-000113-125)

25. This record is an eight-page contract with a solicitation issue date of July 13, 2010, and a six-page statement of work. This contract is being withheld in full pursuant to exemptions (b)(7)(E), (b)(6), (b)(7)(C), and (b)(4).

26. The contract as a whole reveals the Agency's objectives, requirements and associated vulnerabilities, with respect to a system used to identify, analyze and investigate potential threats against Secret Service protectees. The statement of work details the functionality of the protective intelligence system and the contract also provides details regarding Agency criteria with respect to how the system will work. This contract is, therefore, being withheld in full pursuant to exemption (b)(7)(E). While pieces of information in the contract, such as generic or standardized clausal language, could be segregated and released, such generic contract clauses have minimal or no informational content related or responsive to Plaintiff's FOIA request, either separately or taken together.

27. The contractor considers certain financial information regarding pricing to be confidential commercial information and such information, on one page of the contract, is being withheld under exemption (b)(4). The Secret Service also considers such financial information regarding pricing to be confidential commercial information because releasing such information, in the Agency's estimation, would discourage third parties from participating in Secret Service-

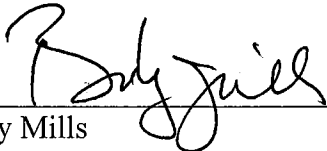
sponsored projects, thereby impeding the Agency's development efforts.

28. Additionally, personal privacy information in the form of names, phone numbers, and e-mail addresses of Secret Service personnel found in both the contract and the statement of work is being withheld under exemptions (b)(6) and (b)(7)(C).

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Date

10/25/12



Brady Mills
Special Agent in Charge,
Freedom of Information Act and
Privacy Act Officer
Liaison Division
United States Secret Service

Voltaire, Jean Michel (CIV)

From: Voltaire, Jean Michel (CIV)
Sent: Wednesday, August 01, 2012 11:36 AM
To: Ginger McCall (mccall@epic.org)
Subject: EPIC v. DHS

Dear Ginger,

I just want to let you know that the documents we produced on May 31, 2012 as part of our third interim response were later reproduced as part of the US Secret Service July 2nd and July 9th productions. We do not refer to the May 31st production in our declarations and brief. For all practical purposes, you can act as though that production never occurred.

Thanks,

Jean-Michel Voltaire
Trial Attorney
U.S. Department of Justice
Civil Division
20 Massachusetts Avenue, NW
Washington, DC 20530
Tel.: 202-616-8211
Fax: 202-616-8460