



May 11, 2015

Ginger McCall
Electric Privacy Information Center
1718 Connecticut Avenue Suite 200
Washington, DC 20009

RE: 2015-STFO-027

Dear Ms. McCall:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Science and Technology Directorate (S&T) dated October 20, 2014, and received by this office on February 6, 2015. You are seeking the following records: 1) all requests for proposal, contracts, grant allocations, and statement of work for performing field-testing operations; 2) all technical specifications for data retention from sensors (and combinations of sensors) deployed in field-testing; 3) all recordings of any testing of FAST technologies since December 13, 2011; and 4) all documents related to future field-testing of FAST technologies (including but not limited to Plan of Action and Milestones, Memoranda of Agreements/Understanding, and contracts).

A search for responsive records was conducted by S&T's Resilient Systems Division. A search of emails and archive files for the key terms field test, Future Attribute Screening Technology, plan of action, milestones, and schedule produced a total of 111 pages responsive to your request. Of those pages, I have determined that 8 pages of the records are available online in their entirety, 20 pages of the records are releasable in their entirety, 33 pages are partially releasable, and 50 pages are withheld in their entirety pursuant to Title 5 U.S.C. § 552 (b)(4), (b)(5), (b)(6), and (b)(7)(E).

Please be advised the privacy impact assessment for FAST was deemed responsive to your request. This item is listed as document #20 on the enclosed inventory sheet. Pursuant to 5 U.S.C. §§552(a)(1) and (a)(2), DHS need not make available under the FOIA records that are published elsewhere. Information responsive to your request can be accessed online at https://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_st_fast-a.pdf.

Enclosed are 53 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 certain information is 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 white papers, future business plans, technical designs and schematics, product specifications, quality control procedures, identity of key personnel, suppliers and subcontractors.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that discretionary release is applicable and portions of the responsive documents qualify for protection under the

- **Deliberative Process Privilege**

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. 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. The information withheld includes draft proposals, comments and edits on draft proposals, and agency personnel discussions of an alternative path forward or recommended plans that were not finalized.

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, 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.

Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I determined that disclosure of *law enforcement systems checks, manuals, checkpoint locations, and surveillance techniques* could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

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), Mailstop 0655, U.S. Department of Homeland Security, Washington, DC 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.

Provisions of the FOIA [AND PRIVACY ACT] allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge.

If you need to contact our office again about this matter, please refer to **2015-STFO-027**. This office can be reached at stfoia@hq.dhs.gov or (202) 254-6342.

Sincerely,



Katrina Hagan
FOIA Officer

Enclosures: Responsive Documents, 53 pages
Inventory Sheet, 1 page