



OFFICE *of* GOVERNMENT INFORMATION SERVICES

May 3, 2016— Sent via e-mail

[REDACTED]
[REDACTED]
[REDACTED]

Re: Case No.: 2016-00789
NG: HK

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

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phone: 202-741-5770
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Dear [REDACTED]:

This responds to your April 22, 2016, request for assistance from the Office of Government Information Services (OGIS). Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Securities and Exchange Commission (SEC). Thank you for contacting OGIS.

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. This process helps us gather necessary background information, assess whether the issues are appropriate for mediation, and determine the willingness of the parties to engage in our services. As part of our information gathering, OGIS carefully reviewed your submission of information, and we understand that you submitted a request for [REDACTED]

[REDACTED]
[REDACTED] You asked for expedited processing and a fee waiver.

SEC FOIA determined that your request would be processed under the Commission's normal guidelines because you did not demonstrate a "compelling need" to obtain the requested record on an expedited basis. SEC FOIA also denied your request for a fee waiver. You appealed and the decision was upheld.

You contacted OGIS for assistance. Specifically, you asked OGIS for assistance in obtaining expedited processing and a fee waiver.



In working with agencies on cases similar to yours, we have learned that requesters must be able to provide the required elements for expedited processing and meet the required factors for fee waivers.

As SEC stated in the [REDACTED], response to your appeal, a FOIA request may be processed on an expedited basis when the requester demonstrates a "compelling need." 5 U.S.C. § 552(a)(6)(E)(i); 17 C.F.R. § 200.80(d)(5)(iii). For the purposes of expedited processing, a compelling need means that a failure to obtain the records expeditiously "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," or if the requester is "primarily engaged in disseminating information, and there is urgency to inform the public concerning actual or alleged federal government activity. 5 U.S.C. § 552(a)(6)(E)(v); 17 C.F.R. § 200.80(d)(5)(iii). According to SEC, you did not claim to be primarily engaged in disseminating information nor have you shown a compelling need how the [REDACTED] requires expedited processing.

As it relates to your request for a fee waiver, the agency also explained the four factors a FOIA requester needs to show in order to qualify for a fee waiver. 17 C.F.R. § 200.80(e)(4)(ii).

As stated in SEC's [REDACTED] response to your appeal, the commission determined that although your fee waiver request satisfies the first factor as the information you seek relates to the operations of the Commission, your request does not satisfy the remaining public interest factors as you fail to identify with any specificity how disclosure of the information would contribute to an understanding of specific government operations or activities. You also have not explained how you intend to utilize the requested materials, nor have you explained how the information you seek is of interest to a broad segment of the public.

I understand that this is not the response and outcome you had hoped to receive. However, I hope you find the explanation provided above useful to understanding why SEC responded as it did to your FOIA request and appeal. At this time, there is no further assistance that OGIS can offer you in this case.

Thank you for bringing this matter to OGIS. We will close your case.

Sincerely,

/S/

JAMES V.M.L. HOLZER
Director

cc: John Livornese, FOIA Public Liaison, SEC

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a

brief anonymous survey on the service you received from OGIS.