

EXHIBIT 16



NATIONAL ARCHIVES *and* RECORDS ADMINISTRATION
8601 ADELPHI ROAD - OGIS | COLLEGE PARK, MD 20740-6001
www.archives.gov/ogis | ogis@nara.gov | o: 202.741.5770 | f: 202.741.5769 | t: 877.684.6448

March 13, 2019
OGIS Case 19-01429

Alicia Cate
acate@oceana.org

Dear Ms. Cate:

Thank you for your March 6 follow up email regarding your FOIA request with the Department of Commerce (DOC), FOIA request number DC-OS-2018-00373.

Congress created OGIS as the Federal FOIA Ombudsman to complement existing FOIA practice and procedure; we strive to work in conjunction with the agency's 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.

As you may be aware, the FOIA requires agencies to establish a telephone line or Internet service that provides information to the requester on the estimated date the agency will complete action on a request, 5 U.S.C. § 552(a)(7)(B)(ii). Guidance issued by the Department of Justice Office of Information Policy (OIP) states that agencies "should make a reasonable judgment as to when they believe processing will be complete, based upon what remains to be done in a given case and in light of the agency's experience with processing similar requests." ("OIP Guidance: Assigning Tracking Numbers and Providing Status Information for Requests," November 18, 2008, <http://www.justice.gov/oip/foiapost/2008foiapost30.htm>).

We reached out to the FOIA Public Liaison for DOC and were referred to the FOIA processor who is working your case, Mr. Steven Gitelman. Mr. Gitelman explained that six separate offices have been tasked with conducting searches to locate documents responsive to your request. Once that search is completed, the records will be forwarded to Mr. Gitelman's office for access review. Mr. Gitelman was unable to provide us with an estimated date of completion for the processing of your request as the FOIA requires. However, he explained that records will be processed as they are received and released to you on a rolling basis.

We understand your frustration with DOC's delay in the response to your request. Delays, while unfortunate, are an unavoidable aspect of the FOIA for many agencies, particularly those that receive as many requests and appeals as DOC. While the agency did not provide an estimated date of completion, it may be helpful to know that, according to FOIA.gov reporting, in Fiscal Year 2017, DOC's Office of the Secretary (OS) responded to simple requests in an average of 17 days and complex requests in an average of 89 days, with the longest response time for simple and complex cases listed as 61 days and 511 days respectively.

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Mr. Gitelman advised you to contact him directly for future status updates. He can be contacted directly at sgitelman1@doc.gov.

Although this may not be the outcome you anticipated, we hope you find this information useful. At this time, it appears that there is no further assistance OGIS can offer and we consider this matter closed. If you have questions or concerns that we have not addressed, please contact us again.

Sincerely,

The OGIS Staff

