



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

March 3, 2023

Re: FOIA Request NLRB-2023-000720

Dear Forest Gregg (Muckrock):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on February 2, 2023, in which you seek “[d]atabase schemas and or table definitions that describe the table, column names, column types, primary and foreign keys for the database associated with the NxGen Case Management System.” You assumed financial responsibility for the processing of your request in the amount of \$37.00.

We acknowledged your request on February 2, 2023. On February 3, 2023, by email with a member of the FOIA staff, you agreed that if the database schema was not releasable, a list of fields associated with the NxGen table names would be acceptable.

Based on the type of information sought in your request, inquiries were directed to the Office of the Chief Information Officer (OCIO). After our discussions with that Office, I have determined that your request is denied in part and granted in part, as explained below.

Your request is granted to the extent that I am releasing certain documents compiled by the Agency’s OCIO, as follows, and are attached:

- A 21-page document containing the NxGen xPression data model listing various data tables and field names contained in those tables. Primary Key (PK) and Foreign Key (FK) designations are included.
- An Excel spreadsheet containing a list of tables and corresponding column names, which are the fields available within each table.
- An Excel spreadsheet containing a list of NxGen Action Names and corresponding Action Types. An action name is the equivalent of a stage during case processing, such as Investigation, Complaint, Hearing, and Election. An action type is a specific subtype of the action, such as Initial C or Initial R for an Investigation action, Pre-Election, Post-Election, or

ULP for a Hearing action, and Standard or Sonotone for an Election action.

Please note that OCIO staff confirmed that there is no data dictionary for NxGen at this time.

Furthermore, an additional search was conducted in FOIAonline for previously processed FOIA requests, which located the "Business Application Development & Support Services Performance Work Statement," dated January 13, 2012. This record was provided in response to FOIA Request NLRB-2016-001075, and is being attached here. It is a 72-page document which describes various NxGen "Applets" and "Business Components" as contained in Appendix E.

However, because you did not specifically exclude the schema from your request, I am advising you now that I have determined that the NxGen database schema is exempt from disclosure under Exemption 7(E) of the FOIA. 5 U.S.C. § 552(b)(7)(E) and is not being provided. Exemption 7(E) permits an agency to withhold records or information compiled for law enforcement purposes 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." 5 U.S.C. § 552(b)(7)(E). Here, the release of the Agency's database schema and layout relationships could potentially facilitate a breach, sabotage, alteration, or manipulation of the Agency's case tracking/law enforcement database, NxGen. Courts have repeatedly recognized the risk of breach or cyber-attack as valid grounds for withholding under Exemption 7(E). See *Buzzfeed, Inc. v. United States Dep't of Homeland Sec.*, 2022 U.S. Dist. LEXIS 113121 *14-15, 19-cv-03062 (D.D.C. 2022); *Long v. Immigration & Customs Enf't*, 464 F. Supp. 3d 409, 419-23 (D.D.C. 2020) (disclosure of schema would allow hackers to access the database more easily and more effectively, cause more damage to the database and escape detection). See also *Levinthal v. FEC*, 219 F. Supp. 3d 1 (D.D.C. 2016).

For the purpose of assessing fees, we have placed you in Category C, as a representative of the news media, in that you qualify as a person "actively gathering news for an entity that is organized and operated to publish or broadcast news to the public." NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(vii). Accordingly, there is no charge assessed for this request.

You may contact Jodilyn Breirather, the FOIA Specialist who processed your request, at (414) 930-7208 or by email at Jodilyn.Breirather@nlrb.gov, as well as the Agency's FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to

narrow the scope of a request in order to minimize fees and processing times. The contact information for the Agency's FOIA Public Liaison is:

Kristine M. Minami, FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nlrb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt, Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nlrb.gov

Any appeal must be postmarked or electronically submitted within 90 days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or

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OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (93 pages plus two Excel spreadsheets)