

Exhibit 46



U.S. Department of Justice
Office of Information Policy
Sixth Floor
441 G Street, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Morgan Weibel, Esq.
Tahirih Justice Center
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881 Sneath Lane
San Bruno, CA 94066
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September 12, 2022

Re: Appeal No. A-2022-01227
Request No. 2022-19761
PJA:HMV

VIA: Email

Dear Morgan Weibel:

You appealed from the action of the Executive Office for Immigration Review (EOIR) on your Freedom of Information Act (FOIA) request for access to records concerning the following subjects: (i) any documents that list or otherwise identify candidates recommended for an AIJ position at any stage in the hiring process. This includes all lists, memoranda, interview notes created by the first and second panels of interviewers. This also includes any lists, memoranda, or interview notes sent to, sent from, or created by the Director or EOIR, the Deputy Attorney General, or the Attorney General and (ii) any communications between interview panel members, at any stage in the hiring process, regarding the process for selecting candidates and any discussion of the candidates selected. I note that your appeal concerns the withholdings made by EOIR.

After carefully considering your appeal, I am affirming, on partly modified grounds, EOIR's action on your request. The FOIA provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. EOIR properly withheld certain information because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(5), which concerns certain inter- and intra-agency records protected by the deliberative process privilege; and

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a

clearly unwarranted invasion of the personal privacy of third parties.

Please be advised that for each of these exemptions, it is reasonably foreseeable that disclosure of the information withheld would harm the interests protected by these exemptions.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of EOIR in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

Matthew W. Hurd

X

Matthew W. Hurd

Chief, Administrative Appeals Staff