

EXHIBIT A

Barnett, Kevin T.

From: Toth, Kaitlyn E.
Sent: Thursday, October 5, 2023 2:22 PM
To: foia@sba.gov
Cc: Canni, Todd J.
Subject: SBA FOIA Request -- Expedited
Attachments: SBA FOIA Request 9.1.docx

Good afternoon,

I submitted a FOIA request through SBA's online FOIA request site FOIAXpress on September 1, 2023, but never received a confirmation email or an update on its status. I am resubmitting our request via email as the FOIAXpress site is temporarily down and this request is highly time sensitive.

We are requesting a complete copy of the SBA's file relating to its inquiry with GET Engineering Corporation on November 17, 2015, concerning the SBA's WOSB eligibility examination, including Ms. Glynnis Long's notes and any final determination reached by the SBA as to GET's eligibility. *See Attached.*

Please expedite this request—it is exceedingly time sensitive as we believe the information is relevant to a pending lawsuit.

Best,
Kaitlyn Toth
She | Her | Hers
Law Clerk
(Not Yet Admitted)

BakerHostetler

Washington Square
1050 Connecticut Ave N.W. | Suite 1100
Washington, DC 20036-5403
T +1.202.861.1720

ketoth@bakerlaw.com
bakerlaw.com



BakerHostetler

Baker&Hostetler LLP

11601 Wilshire Boulevard
Suite 1400
Los Angeles, CA 90025-0509

T 310.820.8800
F 310.820.8859
www.bakerlaw.com

Todd J. Canni
direct dial: 310.442.8840
tcanni@bakerlaw.com

August 30, 2023

VIA SBA FOIA PORTAL

Chief, Freedom of Information/Privacy Acts Office
U.S. Small Business Administration
409 Third St. SW, 8th Floor
Washington, DC 20416

Re: Freedom of Information Act (“FOIA”) Request

Dear Sir or Madam:

On behalf of our client, MC2 Sabtech Holdings, Inc., d/b/a/ IXI Technology, Inc. (“IXI”), a small business located in Yorba Linda, California, we respectfully request that the U.S. Small Business Administration (“SBA”) conduct a review of its respective files to identify and produce information that is responsive to our FOIA request described herein, which is submitted pursuant to 5 U.S.C. § 552 *et seq.*, *as amended*, and SBA FOIA Program 13 C.F.R. Part 102.

DOCUMENTS REQUESTED

In the interests of making your review most efficient and expediting the production of responsive documents, we have crafted a narrow request seeking the following:

A complete copy of the SBA’s file relating to its inquiry with GET Engineering Corporation on November 17, 2015, concerning the SBA’s WOSB eligibility examination, including Ms. Glynnis Long’s notes and any final determination reached by the SBA as to GET’s eligibility.

To the extent you have any questions after reviewing our request, please do not hesitate to contact undersigned counsel.

Chief, Freedom of Information/Privacy Acts Office

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BACKGROUND

On November 17, 2015, the SBA sent GET Engineering Corporation, a business located in El Cajon, California, a letter notifying GET that the SBA was performing an eligibility examination to verify GET's status as a Women-Owned Small Business ("WOSB"). See Attachment 1 SBA WOSB/EDWOSB Notification Letter for Eligibility Exam.

According to GET's contemporaneous hand-written notes from that time period, which have been produced to us during discovery in litigation with GET, on or around December 9, 2015, the SBA, through Ms. Glynnis Long – a former member of the SBA's WOSB staff - informed GET that it was not a WOSB because men were running the company and serving as CEO (i.e., the highest officer). Apparently, Ms. Long reached this conclusion after speaking with GET and receiving information from GET concerning its business operations.

GET has informed IXI in the litigation that the SBA did not issue GET a formal letter concluding that it was not a WOSB, and that the matter was closed out with Ms. Long directing GET to discontinue use of the WOSB designation. Given the SBA inquiry commenced with a formal letter, we find it unusual that the SBA did not close out the inquiry formally with its determination. We recently spoke with Ms. Long to learn more about her communications with GET and whether her conclusion that GET was not a WOSB was formally memorialized. Ms. Long indicated that there was an SBA working file for the matter that contained her notes on GET's eligibility and suggested that undersigned make a formal FOIA request for such notes and any final determination which may exist.

Responsive documents are requested to be produced in their entirety, including all attachments thereto. In the event it is determined that a document contains material or information which falls within statutory exemptions to mandatory disclosure, it is requested that such material or information be reviewed for possible discretionary disclosure. Similarly, in the event that it is determined that a document contains material or information which falls within the statutory exemptions to mandatory disclosure, it is expressly requested that, in accordance with the provisions of 5 U.S.C. § 552(b), any and all reasonably segregable portions of such document be produced.

I further request that, pursuant to 5 U.S.C. § 552(a)(3)(B)¹, your office produce responsive documents in the **native electronic format** in which the document was created and/or received. To the extent that your agency is unable to produce the responsive documents in the requested format, I request that your office confirm that the record does not exist in native format

¹ 5 U.S.C. § 552(a)(3)(B) provides:

“In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each agency shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this section.”

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and produce the documents in the following format, listed in accordance with my preference: 1) PDF format; or 2) paper copy.

To the extent that you determine that any subject document will not be disclosed because it meets any of the criteria in the FOIA for nondisclosure, you are requested, as noted in more detail below, to identify such documents in accordance with the requirements of *Vaughn v. Rosen*, 523 F.2d 1136 (D.C. Cir. 1975). To the extent that you determine that any subject document will not be disclosed because it is classified in accordance with document classification procedures of your office, I request that such document be declassified or redacted sufficiently to enable useful review and inclusion of its identifying characteristics under *Vaughn v. Rosen*.

When it is determined by your office that all documents responsive to any individual request item (or portion thereof) have been furnished or specifically identified and denied under claim of authority pursuant to 5 U.S.C. § 552(b), written confirmation of such fact is specifically requested.

It is further requested that, to the extent possible, documents in logical groups, determined to be disclosable, be provided in accordance with this request on an incremental basis as soon as they become available.

This request constitutes notice and demand for the production of the above-described documents. If for any reason it is determined that any document or portion thereof will not be made available to the undersigned, or that this request will not, in whole or in part, be complied with, the undersigned requests that notice be given as promptly as possible of any documents which will not be made available, and that they be indexed and identified by stating the title, author, date, nature of such material, and the reason(s) for your office's determination to withhold disclosure.

This firm and the undersigned will be responsible for the reasonable cost of locating and reproducing the requested documents to the extent required by your regulations. If the costs of the document collection is expected to exceed \$2,500.00, please contact me promptly and before incurring such cost.

Please direct all correspondence related to this request via email to Todd J. Canni at tcanni@bakerlaw.com. Additionally, if at all possible, I request the responsive documents be transmitted electronically. If that is not possible, I request the documents be mailed to:

Todd J. Canni, Esq.
Baker & Hostetler
11601 Wilshire Boulevard, Suite 1400
Los Angeles, CA 90025-0509

Thank you in advance for your assistance with this matter and, should you have any questions at all, please do not hesitate to contact me at (202) 384-6223.

Chief, Freedom of Information/Privacy Acts Office

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Sincerely,

/s/Todd J. Canni

Todd J. Canni

Partner