



June 27, 2023

**VIA ELECTRONIC MAIL** [FOIARequests@uspto.gov](mailto:FOIARequests@uspto.gov); [efoia@uspto.gov](mailto:efoia@uspto.gov)

USPTO FOIA Officer  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Re: US Inventor Freedom of Information Act Request on Bonus Payments to APJs**

Dear FOIA Officer:

US Inventor, a not-for-profit § 501(c)(4) corporation, hereby requests under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and 37 C.F.R. § 102.4, the following records from the U.S. Patent & Trademark Office (PTO) regarding bonus award payments to Administrative Patent Judges (APJs):

1. Please provide copies of pay records documenting all individual bonus award payments made to each APJ from October 1, 2011 to present.
2. For avoidance of doubt, the records sought under Request 1 may include multiple payment records for the same APJ in a single fiscal year, as we seek records for *each separate* bonus award payment to the APJ, reflecting the amount, the date it was payed, and identifying the PTO transaction number of the payment.
3. For each APJ payment record of Requests 1-2, please provide the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made.

Please provide the requested material in its native electronic form such as Excel, MS Word or PDF documents, preferably by email to [rlinventor@protonmail.com](mailto:rlinventor@protonmail.com).

*Definitions*

“Records” are defined at 44 U.S.C. § 3301, and per 5 U.S.C. § 552(f)(2), include “any information that would be an agency record subject to the requirements of [FOIA] when maintained by an agency in any format, including an electronic format.” The terms “and” and “or” shall be construed both conjunctively and disjunctively.

*Public Interest Fee Waiver*

Because records requested herein were identified explicitly and may be readily located without undue search burden, US Inventor anticipates that under 37 C.F.R. § 102.11(d)(4), no fees should be assessed. However, in the event that the PTO intends to assess fees for this request, US Inventor requests a public interest fee waiver because the requested records directly concern and bear upon the government’s operations and activities, will be highly informative to

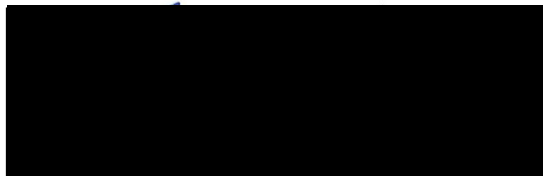


the general public regarding the PTO's policies, including on matters directly affecting thousands of patent holders and applicants.

Upon receipt, US Inventor will make these records or their analysis publically available on our website at [www.usinventor.org](http://www.usinventor.org) for use by journalists, scholars, students, and interested members of the public at no charge, and use the information in reports, newsletters ([www.usinventor.org/subscribe](http://www.usinventor.org/subscribe)), and other public disseminations to advance our educational mission. Therefore, disclosure of the requested information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester,"<sup>1</sup> a 501(c)(4) corporation.

We may be reached at the address below, if you have any questions.

Respectfully submitted,



US INVENTOR

Randy Landreneau  
President  
P.O. Box 2273,  
Clearwater, FL 33757

[rlinventor@protonmail.com](mailto:rlinventor@protonmail.com)  
727-744-3748

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<sup>1</sup> 5 U.S.C. § 552(a)(4)(A)(iii); 37 C.F.R. § 102.11(k)(1).



**UNITED STATES PATENT AND TRADEMARK OFFICE**

OFFICE OF THE GENERAL COUNSEL

Wednesday, June 28, 2023

**VIA Email**

Mr. Randy Landreneau  
U.S. Inventor  
17440 Dallas Parkway  
Dallas, TX 75287

Dear Mr. Landreneau:

Your Freedom of Information Act (FOIA) and/or Privacy Act request was received by the United States Patent and Trademark Office (USPTO) FOIA Office on **Wednesday, June 28, 2023**.

Your request has been docketed as “**FOIA Request No. F-23-00184.**” Any further inquiries regarding your request should include that number. A copy of your request is attached for reference.

In the event your original request was incorrectly addressed, please address all inquiries regarding your request to:

FREEDOM OF INFORMATION ACT (FOIA) OFFICER  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or via email to [foiarequests@uspto.gov](mailto:foiarequests@uspto.gov)

The Agency will make every effort to provide a response within 20 working days. You will be notified if unusual circumstances require an extension to complete the processing of your request. You may check on the status of your request AFTER THE APPLICABLE 20 OR 30 DAY PROCESSING TIMEFRAME by sending an email to [foiarequests@uspto.gov](mailto:foiarequests@uspto.gov) with your request number.

Sincerely,

USPTO FOIA Office

Enclosure

## Exhibit 2

From: [efoia@uspto.gov](mailto:efoia@uspto.gov) <[efoia@uspto.gov](mailto:efoia@uspto.gov)>  
Date: On Thursday, July 27th, 2023 at 4:48 PM  
Subject: Interim Agency Response F-23-00184  
To: [rlinventor@protonmail.com](mailto:rlinventor@protonmail.com) <[rlinventor@protonmail.com](mailto:rlinventor@protonmail.com)>  
CC: [Traci.Alexander@uspto.gov](mailto:Traci.Alexander@uspto.gov) <[Traci.Alexander@uspto.gov](mailto:Traci.Alexander@uspto.gov)>

Dear Mr. Landreneau:

Attached is the Agency's interim response to FOIA Request No. F-23-00184.

Traci Alexander  
FOIA Specialist  
United States Patent and Trademark Office  
Office of General Law



**UNITED STATES PATENT AND TRADEMARK OFFICE**

OFFICE OF GENERAL LAW

**VIA EMAIL**

Mr. Randy Landreneau  
U.S. Inventor

Re: Freedom of Information Act (FOIA) Request No. F-23-00184

Dear Mr. Landreneau:

This is in response to your correspondence dated June 27, 2023, pursuant to the Freedom of Information Act (5 U.S.C. § 552), requesting a copy of:

1. Please provide copies of pay records documenting all individual bonus award payments made to each APJ from October 1, 2011 to present.
2. For avoidance of doubt, the records sought under Request 1 may include multiple payment records for the same APJ in a single fiscal year, as we seek records for *each separate* bonus award payment to the APJ, reflecting the amount, the date it was payed, and identifying the PTO transaction number of the payment.
3. For each APJ payment record of Requests 1-2, please provide the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made.

Your request for fee waiver is denied. 5 U.S.C. §552(a)(4)(A)(iii) provides that a fee be waived:

“if disclosure of information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requestor.”

“A requestor seeking a fee waiver bears the initial burden of identifying the public interest to be served.” National Treasury Employees Union v. Griffin, 811 F.2d 644, 647 (D.C. Cir. 1987). Such a requestor must show that disclosure would contribute to the public’s understanding of the operation or activities of the government since a fee waiver necessarily involves the “expenditure of public funds.” Ely v. United States Postal Service, 753 F.2d 163, 165 (D.C. Cir. 1985).

Your request does not articulate the public interest to be served or how such information would contribute to the public's understanding of Government activities.

Your letter fails to establish that the information requested will significantly add to the public's understanding of the operations of the USPTO. The letter merely indicates a general claim that " the requested records directly concern and bear upon the government's operations and activities, will be highly informative to the general public regarding the PTO's policies, including on matters directly affecting thousands of patent holders and applicants" but you fail to articulate in any meaningful way how the requested information will in fact contribute to the public interest. See Judicial Watch v. U.S. Dep't of Justice, 185 F.Supp. 2d 54, 59 (D.D.C. 2002)(stating that requester must show that disclosure will contribute to understanding of "reasonably broad audience of persons").

Accordingly, your request for a public interest fee waiver is denied.

Preliminary estimates indicate that the approximate processing cost of this FOIA request is \$ **588.47**. Associated copying charges cannot be estimated until a final determination regarding releasability is made.

This estimate does not necessarily represent the final cost. Estimates are inherently imprecise, and the final cost could be higher or lower than the amount provided here. However, the estimate provided herein is reasonably calculated to represent search costs required to adequately respond to your request.

As a non-commercial use FOIA requester, you are responsible for a search (excluding the first two hours) and for duplication (excluding the first 100 pages). See 37 C.F.R. § 102.11(c)(1)(iv).

Please note that a search fee is chargeable even when no responsive records are found, or when the records requested are determined to be totally exempt from disclosure. See 37 C.F.R. § 102.11(c)(3)(i).

Since the estimate exceeds \$250.00, you are required to pay the entire amount estimated before a search can begin. See 37 C.F.R. § 102.1(i)(2).

Please remit, within 30 calendar days of the date of this letter, a check made payable to the "Department of Treasury" in the amount of \$ **588.47**. The payment may be sent to:

United States Patent and Trademark Office  
Freedom of Information Act Officer  
Office of the General Counsel  
P.O. Box 1450

If payment in full is not received by **August 28, 2023**, this request will be considered withdrawn and closed. Please contact us before that date, however, if you would like to discuss your request in order to reformulate it to meet your needs at a reduced cost.

This fee waiver denial constitutes a partial denial of your request for records under the FOIA. The undersigned is the denying official. You have the right to appeal this initial decision to the General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. An appeal must be received within 90 calendar days from the date of this letter. See 37 C.F.R. § 102.10(a). The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial denial is in error. Both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

Sincerely,

A handwritten signature in cursive script that reads "Traci Alexander".

Traci Alexander  
FOIA Specialist  
Office of General Law



August 4, 2023

**VIA REGISTERED MAIL**

**COPY VIA E-MAIL** [FOIARequests@uspto.gov](mailto:FOIARequests@uspto.gov); [efoia@uspto.gov](mailto:efoia@uspto.gov)

United States Patent and Trademark Office  
Freedom of Information Act Officer  
Office of the General Counsel  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Re: US Inventor Freedom of Information Act Request F-23-00184**

Dear FOIA Officer:

In the Interim Response of the U.S. Patent & Trademark Office (PTO) of July 27, 2023 regarding the above-captioned FOIA request, you have denied our fee-waiver request, and demanded that we pay the estimated amount of \$ 588.47 in order that the PTO's search for responsive records begins. We disagree with your reasons for denial of the fee waiver, which we will soon appeal. However, in the interim we are now making the requested payment in full under protest in order to avoid any delay in the search and production of responsive records.

Attached is a check made out to the "Department of Treasury" for the amount of **\$ 588.47** as requested. We may be reached at the address below, if you have any questions.

Respectfully submitted,

US INVENTOR

Randy Landreneau  
President



**UNITED STATES POSTAL SERVICE** **POSTAL MONEY ORDER**

Serial Number: [Redacted] Year, Month, Day: 2023-08-04 U.S. Dollars and Cents: **\$588.47**

Amount: Five Hundred Eighty Eight Dollars and 47/100 \*\*\*\*

Pay to: **United States Treasury** Clerk: 11

Address: [Redacted] From: **U.S. Inventor**

Memo: **F.O.I.A. F-23-00184**

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

**UNITED STATES POSTAL SERVICE** **CUSTOMER'S RECEIPT**

SEE BACK OF THIS RECEIPT FOR IMPORTANT CLAIM INFORMATION **NOT NEGOTIABLE**

Pay to: [Redacted] Address: [Redacted]

KEEP THIS RECEIPT FOR YOUR RECORDS

Serial Number: [Redacted] Year, Month, Day: 2023-08-04 Post Office: [Redacted] Amount: \$588.47 Clerk: 11

Registered No: **91746** Date Stamp: **01 to 1 AUG - 4 2023**

To Be Completed By Post Office	Postage \$ <b>\$0.00</b>	Extra Services & Fees (continued)
	Extra Services & Fees	<input type="checkbox"/> Signature Confirmation \$
	<input type="checkbox"/> Registered Mail <b>\$16.50</b>	<input type="checkbox"/> Signature Confirmation Restricted Delivery \$
	<input type="checkbox"/> Return Receipt (hardcopy) \$ <b>\$0.00</b>	<b>Total Postage &amp; Fees</b>
	<input type="checkbox"/> Return Receipt (electronic) \$ <b>\$0.00</b>	<b>\$17.50</b>
	<input type="checkbox"/> Restricted Delivery \$ <b>\$0.00</b>	Customer Must Declare Full Value <b>\$0.00</b>

Received by: **08/04/2023**

Domestic Insurance up to \$50,000 is included based upon the declared value. International Indemnity is limited. (See Reverse).

**OFFICIAL USE**

FROM: **CLEARWATER, FL 33755 R. Landrean**

TO: **U.S.P.O. F.O.I.A. Officer  
Office of the General Counsel  
P.O. Box 1450  
Alexandria, VA 22313-1450**

PS Form 3806, Registered Mail Receipt April 2015, PSN 7530-02-000-9051 Copy 1 - Customer (See Information on Reverse) For domestic delivery information, visit our website at www.usps.com®

From: Randy Landreneau <RLinventor@protonmail.com>

Date: On Tuesday, August 15th, 2023 at 5:43 PM

Subject: US Inventor Freedom of Information Act Request F-23-00184

To: FOIARequests@uspto.gov <FOIARequests@uspto.gov>, efoia@uspto.gov  
<efoia@uspto.gov>

Dear FOIA Officer,

This regards US Inventor Freedom of Information Act Request F-23-00184. The attached letter was sent and received by registered mail with a Cashier's Check for \$588.47. The tracking number is .

Best,

Randy

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Randy Landreneau, President

US Inventor, Inc.

[www.USinventor.org](http://www.USinventor.org)



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE OF THE GENERAL COUNSEL

September 8, 2023

VIA EMAIL

Mr. Randy Landreneau  
U.S. Inventor

RE: *Freedom of Information Act (FOIA) Request No. F-23-00184*

Dear Mr. Landreneau:

The United States Patent and Trademark Office (USPTO) FOIA Office has received your e-mail dated June 28, 2023 requesting a copy of the following documents pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. § 552:

Documents regarding bonus award payments to Administrative Patent Judges (APJs) from October 1, 2011 to June 28, 2023.

The USPTO has identified information that is responsive to your request. However, the response is withheld in full pursuant to Exemption (b)(6) of the FOIA.

Exemption (b)(6) of the FOIA, which permits the withholding of “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). The term “similar files” has been broadly construed to cover “detailed Government records on an individual which can be identified as applying to that individual.” Dep’t of State v. Washington Post, 456 U.S. 595, 601 (1982). Information that applies to a particular individual meets the threshold requirement for Exemption (b)(6) protection. Id. The privacy interest at stake belongs to the individual, not the agency. See Dep’t of Justice v. Reporter’s Comm. for Freedom of the Press, 489 U.S. 749, 763-65 (1989). Exemption (b)(6) requires a balancing of an individual’s right to privacy against the public’s right to disclosure. See Dep’t of the Air Force v. Rose, 425 U.S. 352, 372 (1976); Multi Ag Media LLC v. Dep’t of Agric., 515 F.3d 1224, 1228 (D.C. Cir. 2008).

Here, the bonus information is directly tied to performance ratings. The ratings and the corresponding bonus amounts apply to particular individuals, and is information in which those individuals have a legitimate privacy interest. The burden is on the requester to establish that disclosure of this information would serve the public interest. See Bangoura v. Dep’t of the Army, 607 F. Supp. 2d 134, 148-49 (D.D.C. 2009). When balancing the public interest of release against individual privacy interest, the Supreme Court has made clear that information

that does not directly reveal the operations or activities of the federal government falls outside the ambit of the public interest. See Reporters Comm., 489 U.S. at 775. The withheld information does little to shed light or contribute significantly to public understanding of the operations or activities of the USPTO. Your FOIA request does not assert a public interest that outweighs the privacy interest, nor is one otherwise evident. As such, the FOIA dictates that the information be withheld.

As required by the FOIA Improvement Act of 2016 and Department of Justice guidance, USPTO has conducted a foreseeable harm review and reasonably foresees that disclosure of the withheld material would harm an interest protected by a FOIA exemption.

You may contact the FOIA Public Liaison at 571-272-9585 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

You have the right to appeal this initial decision to the Deputy General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or you may submit an appeal electronically to [FOIARequests@USPTO.gov](mailto:FOIARequests@USPTO.gov). An appeal must be received within 90 calendar days from the date of this letter. The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial denial is in error. If you submit your appeal by mail, both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

Sincerely,



Louis J. Boston Jr.  
USPTO FOIA Officer  
Office of General Law



September 20, 2023

**FREEDOM OF INFORMATION APPEAL**

VIA ELECTRONIC MAIL ([foiarequests@uspto.gov](mailto:foiarequests@uspto.gov))

Office of the General Counsel  
United States Patent and Trademark Office  
Madison Building East, Room 10B20  
600 Dulany Street  
Alexandria, VA 22314

**Re: *Appeal of Final Decision on Freedom of Information Act Request No. F-23-00184***

Dear Deputy General Counsel:

US Inventor, Inc. (USI), a not-for-profit § 501(c)(4) corporation, hereby appeals under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(a)(6), the Patent and Trademark Office's (PTO) final decision of September 8, 2023, on USI's FOIA Request No. F-23-00184.

**1 BACKGROUND**

1. USI submitted the FOIA request on June 27, 2023, seeking records from the PTO regarding individual payments of bonus awards and salaries to Administrative Patent Judges (APJs). This request also included a public interest fee waiver request. Attachment 1.

2. The PTO acknowledged receipt of USI's request on June 28, 2023, designating it as "FOIA Request No. F-23-00184," and stated that it "will make every effort to provide a response within 20 working days" and that USI "will be notified if unusual circumstances require an extension to complete the processing of your request." Attachment 2.

3. On July 27, 2023, the PTO sent by email a letter with its "interim response," denying USI's fee-waiver request, and demanding payment of \$ 588.47 in order to commence the search for responsive records. Attachment 3.

4. On August, 4, 2023, USI sent a letter to the PTO by registered mail (Registration No. RE132071071US) with a money order for the requested payment in full. The letter explained that USI disputes the authority of the PTO to charge the fee, but that payment is nevertheless made in full in order to "avoid any delay in the search and production of responsive records." Attachment 4.

5. USI obtained the US Postal Service (USPS) tracking records of the registered mail item, confirming that RE132071071US was received at the PTO on August 14,



2023, and signed-in by Sidney Dyar, a PTO employee listed as Director, Office of Administrative Services. Attachment 5.

6. On August 15, USI sent a reminder email to the PTO FOIA officer, attaching an electronic copy of the August 4, 2023 letter, further explaining that the “attached letter was sent and received by registered mail with a Cashier's Check for \$588.47.” The letter provided the USPS tracking number RE132071071US for the received item. Attachment 6.

7. On September 8, 2023, the PTO sent its final determination letter calling it “Final Agency Response.” It stated that the PTO “has identified information that is responsive to your request. However, the response is withheld in full pursuant to Exemption (b)(6) of the FOIA.” The PTO did not even release segregable redacted records. Attachment 7.

8. USI’s FOIA Request F-23-00184 fully complied with PTO FOIA Regulations in 37 C.F.R. § 102.4 and the records requested were nonexempt, and described in sufficient detail to enable PTO personnel to locate them with a reasonable amount of effort. USI now appeals the PTO’s withholding of the requested information and appeals the PTO decision to charge fees.

## **2 THE PTO FAILED TO MEET THE FOIA DEADLINE**

9. The PTO failed to provide its written determination within the FOIA time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i). The Office provided no written notice to USI extending time for “unusual circumstances” pursuant to § 552(a)(6)(B)(i). Instead, the PTO provided its “interim response” on July 27, 2023, on the *last day* of the 20-business-day deadline. This left *no time to toll* under § 552(a)(6)(A)(ii)(II) for any “issues regarding fee assessment” it may have raised in its “interim response.” The PTO provided its final determination only on September 8, 2023, substantially later than the 20-business-day deadline for agency compliance with the FOIA.

10. The PTO was *already* in violation of the FOIA deadline as of its interim response date on July 27, 2023, because by that date—the *last day* of the 20-business-day deadline—it failed to provide its final determination as required under § 552(a)(6)(A)(i).

## **3 PTO REPATS ITS PATTERN OF UNLAWFULLY WITHHELD EMPLOYEE COMPENSATION INFORMATION**

In its final determination, the PTO withheld in full all APJ compensation information sought in this instant request, claiming the privacy Exemption (b)(6) of the FOIA with respect to the bonuses because, it contended, “the bonus information is directly tied to performance ratings.” Attachment 7, at 1.

First, PTO’s final determination relates solely to the bonus award information and ignores entirely USI’s request No. 3 for “the full name of the APJ and the *base salary* of the APJ at the time the bonus award payment was made.” Attachment 1,

at 1 (emphasis added). PTO provided neither a basis, nor identified any claimed FOIA exemption justifying withholding the base salaries.

Second, the PTO makes up from thin air its own “tied-to” exemption rule. The Civil Service regulations specifically require that information on “[p]resent and past *annual salary rates* (including *performance awards or bonuses, incentive awards, merit pay amount*” must be made “available to the public.” 5 C.F.R. § 293.311(a)(4) (emphasis added). *See also FLRA v. U.S. Dep't of Commerce*, 962 F.2d 1055, 1060 (distinguishing personnel “ratings,” which traditionally have not been disclosed, from “performance awards,” which ordinarily are disclosed); *FAA v. National Air Traffic Controllers Association*, 51 F.L.R.A. 1054, 1064, 1996 FLRA LEXIS 28, \*22, 51 FLRA No. 87 (F.L.R.A. March 29, 1996) (recognizing under the FOIA “that disclosure of information relating to performance awards would serve the public interests of: (1) ensuring that the appraisal and awards systems are administered in a fair and equitable manner, without discrimination, and in accordance with laws, rules and regulations and (2) monitoring the public fisc to ensure that the agency's expenditure of money for awards is appropriate.”)

This unlawful practice of claiming Exemption (b)(6) to withhold employee’s bonus award information now appears *a pattern* with the PTO’s FOIA office. In FOIA request F-21-00173, USI already appealed such attempted withholding, bringing to the PTO’s attention the clear regulation and law enunciated in the same authorities identified above. In the decision following that earlier appeal, the PTO’s Deputy General Counsel *acknowledged* the exemption claim was improper and found that “[t]he information at issue is within a responsive document, reasonably segregable, and nonexempt. It will therefore be released.” Final Response in USI FOIA Appeal A-22-0004 at 3 ([January 25, 2022](#)).

No good-faith is apparent in PTO ignoring USI’s full request, or in its repetition of efforts to withhold nonexempt information contrary to the PTO’s own prior acknowledgement. This willful practice resulted in burdening USI with unnecessary costs and delays of having to appeal *the same issue again*. This clearly raises “questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding.” § 552(a)(4)(F)(i). The PTO must promptly release in full all information requested by USI.

#### **4 THE PTO MAY NOT CHARGE ANY FEES**

The PTO’s interim response denied USI fee waiver, arguing (at 2) that USI’s request “merely indicates a general claim that ‘the requested records directly concern and bear upon the government’s operations and activities, will be highly informative to the general public regarding the PTO’s policies, including on matters directly affecting thousands of patent holders and applicants’ but you fail to articulate in any meaningful way how the requested information will in fact contribute to the public interest.” Attachment 3, at 2.

This argument is unavailing as it must be *presumed* that the PTO is informed of the relevant Civil Service regulation in 5 C.F.R. § 293.311(a)(4) and FOIA case law that inherently “articulate in ... meaningful way *how the requested information will in fact contribute to the public interest.*” See *FAA*, 51 F.L.R.A. at 1064 (recognizing “that disclosure of information relating to performance awards *would serve the public interests* of: (1) ensuring that the appraisal and awards systems are administered in a fair and equitable manner, without discrimination, and in accordance with laws, rules and regulations and (2) monitoring the public fisc to ensure that the agency's expenditure of money for awards is appropriate.”) (Emphasis added). For that purpose of serving the public interest, USI has already posted other bonus award information of senior PTAB officials on its public website,<sup>1</sup> and intends to do the same as soon as similar information is released hereunder.

In any event, other grounds preclude the PTO from charging any fees: The PTO has forfeited its right to charge any fees for this request *on the day it demanded the fees*. As shown in Section 2 above, this is because the PTO was *already* in violation of the FOIA deadline as of that day—the *day on which the 20-business-day period ended*—by failing to provide its final determination as required under § 552(a)(6)(A)(i). Therefore, under § 552(a)(4)(A)(viii), the PTO was barred from assessing *any* fees in this case in the first place.

No good-faith is apparent in this late demand for fees at a time the PTO *knew it failed to provide a timely final determination*, a fee collection that the PTO knew, or should have known, is prohibited under § 552(a)(4)(A)(viii). The PTO demand for fees delayed even further release of responsive records to USI. Congress amended § 552(a)(4) of the FOIA in the *Open Government Act of 2007*, § 2. “To underscore Congress's belief in the importance of the statutory time limit, the 2007 Amendments declare that '[a]n agency shall not assess search fees ... if the agency fails to comply with *any time limit*' of FOIA.” *Bensman v. Nat'l Park Serv.*, 806 F. Supp. 2d 31, 38 (D.D.C. 2011) (quoting 5 U.S.C. § 552(a)(4)(A)(viii)) (emphasis and alterations in original). If an agency is permitted to avoid timely search for responsive records, let the statutory deadline lapse, and then take indefinite time to commence a search only if fees are unlawfully collected after the deadline, it would render the 2007 Amendment superfluous because it would allow an agency to charge fees regardless of whether it complied with FOIA deadlines.

Therefore, the PTO must promptly refund the \$588.47 fee that USI paid under protest in this case.

## **5 REQUEST FOR FAST-TRACK PROCESSING AND RELEASE**

Recognizing the sizeable number of APJs for whom multiyear compensation records are sought hereunder, USI is amenable to dual-track processing under 5 U.S.C.

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<sup>1</sup> “PTO Production (Sep-29- 2021),” F-21-00173 at <https://usinventor.org/ptab-foia-documents/>



§ 552(a)(6)(D), wherein responsive records for the majority of APJs may be produced in full on the slow track, while the records for the 20 APJs identified below are to be produced in full on the fast track to facilitate prompt release of responsive records.

1. Barbara A. Benoit
2. Jennifer S. Bisk
3. Jacqueline W. Bonilla
4. Patrick M. Boucher
5. Joni Y. Chang
6. Matthew R. Clements
7. Kalyan K. Deshpande
8. Rama G. Elluru
9. Bart A. Gerstenblith
10. Lora M. Green
11. Phillip J. Hoffmann
12. Michael W. Kim
13. Jameson Lee
14. David C. McKone
15. Brian J. McNamara
16. Grace K. Obermann
17. Jeremy M. Plenzler
18. William V. Saindon
19. James A. Tartal
20. Robert J. Weinschenk

## 6 CONCLUSION

The PTO must commence promptly with the release of all responsive records in full.

Thank you for your consideration.

Sincerely,



US INVENTOR  
Randy Landreneau, President  
P.O. Box 2273,  
Clearwater, FL 33757  
[rlinventor@protonmail.com](mailto:rlinventor@protonmail.com)  
727-744-3748

# **ATTACHMENT 1**

**USI FOIA request of June 27, 2023**



June 27, 2023

**VIA ELECTRONIC MAIL** [FOIARequests@uspto.gov](mailto:FOIARequests@uspto.gov); [efoia@uspto.gov](mailto:efoia@uspto.gov)

USPTO FOIA Officer  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Re: US Inventor Freedom of Information Act Request on Bonus Payments to APJs**

Dear FOIA Officer:

US Inventor, a not-for-profit § 501(c)(4) corporation, hereby requests under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and 37 C.F.R. § 102.4, the following records from the U.S. Patent & Trademark Office (PTO) regarding bonus award payments to Administrative Patent Judges (APJs):

1. Please provide copies of pay records documenting all individual bonus award payments made to each APJ from October 1, 2011 to present.
2. For avoidance of doubt, the records sought under Request 1 may include multiple payment records for the same APJ in a single fiscal year, as we seek records for *each separate* bonus award payment to the APJ, reflecting the amount, the date it was payed, and identifying the PTO transaction number of the payment.
3. For each APJ payment record of Requests 1-2, please provide the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made.

Please provide the requested material in its native electronic form such as Excel, MS Word or PDF documents, preferably by email to [rlinventor@protonmail.com](mailto:rlinventor@protonmail.com).

#### *Definitions*

“Records” are defined at 44 U.S.C. § 3301, and per 5 U.S.C. § 552(f)(2), include “any information that would be an agency record subject to the requirements of [FOIA] when maintained by an agency in any format, including an electronic format.” The terms “and” and “or” shall be construed both conjunctively and disjunctively.

#### *Public Interest Fee Waiver*

Because records requested herein were identified explicitly and may be readily located without undue search burden, US Inventor anticipates that under 37 C.F.R. § 102.11(d)(4), no fees should be assessed. However, in the event that the PTO intends to assess fees for this request, US Inventor requests a public interest fee waiver because the requested records directly concern and bear upon the government’s operations and activities, will be highly informative to

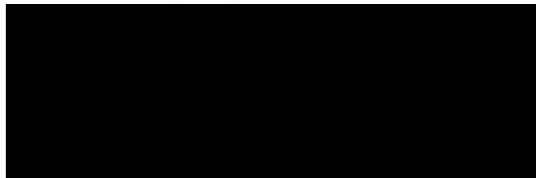


the general public regarding the PTO's policies, including on matters directly affecting thousands of patent holders and applicants.

Upon receipt, US Inventor will make these records or their analysis publically available on our website at [www.usinventor.org](http://www.usinventor.org) for use by journalists, scholars, students, and interested members of the public at no charge, and use the information in reports, newsletters ([www.usinventor.org/subscribe](http://www.usinventor.org/subscribe)), and other public disseminations to advance our educational mission. Therefore, disclosure of the requested information "is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester,"<sup>1</sup> a 501(c)(4) corporation.

We may be reached at the address below, if you have any questions.

Respectfully submitted,



US INVENTOR

Randy Landreneau  
President  
P.O. Box 2273,  
Clearwater, FL 33757

[rlinventor@protonmail.com](mailto:rlinventor@protonmail.com)  
727-744-3748

---

<sup>1</sup> 5 U.S.C. § 552(a)(4)(A)(iii); 37 C.F.R. § 102.11(k)(1).

## **ATTACHMENT 2**

**PTO acknowledged receipt of Request No. F-23-00184**



**UNITED STATES PATENT AND TRADEMARK OFFICE**

OFFICE OF THE GENERAL COUNSEL

Wednesday, June 28, 2023

**VIA Email**

Mr. Randy Landreneau  
U.S. Inventor  
17440 Dallas Parkway  
Dallas, TX 75287

Dear Mr. Landreneau:

Your Freedom of Information Act (FOIA) and/or Privacy Act request was received by the United States Patent and Trademark Office (USPTO) FOIA Office on **Wednesday, June 28, 2023**.

Your request has been docketed as “**FOIA Request No. F-23-00184.**” Any further inquiries regarding your request should include that number. A copy of your request is attached for reference.

In the event your original request was incorrectly addressed, please address all inquiries regarding your request to:

FREEDOM OF INFORMATION ACT (FOIA) OFFICER  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or via email to [foiarequests@uspto.gov](mailto:foiarequests@uspto.gov)

The Agency will make every effort to provide a response within 20 working days. You will be notified if unusual circumstances require an extension to complete the processing of your request. You may check on the status of your request AFTER THE APPLICABLE 20 OR 30 DAY PROCESSING TIMEFRAME by sending an email to [foiarequests@uspto.gov](mailto:foiarequests@uspto.gov) with your request number.

Sincerely,

USPTO FOIA Office

Enclosure

## ATTACHMENT 3

### PTO Interim Response of July 27, 2023

From: [efoia@uspto.gov](mailto:efoia@uspto.gov) <[efoia@uspto.gov](mailto:efoia@uspto.gov)>  
Date: On Thursday, July 27th, 2023 at 4:48 PM  
Subject: Interim Agency Response F-23-00184  
To: [rlinventor@protonmail.com](mailto:rlinventor@protonmail.com) <[rlinventor@protonmail.com](mailto:rlinventor@protonmail.com)>  
CC: [Traci.Alexander@uspto.gov](mailto:Traci.Alexander@uspto.gov) <[Traci.Alexander@uspto.gov](mailto:Traci.Alexander@uspto.gov)>

Dear Mr. Landreneau:

Attached is the Agency's interim response to FOIA Request No. F-23-00184.

Traci Alexander  
FOIA Specialist  
United States Patent and Trademark Office  
Office of General Law



**UNITED STATES PATENT AND TRADEMARK OFFICE**

OFFICE OF GENERAL LAW

**VIA EMAIL**

Mr. Randy Landreneau  
U.S. Inventor  
17440 Dallas Parkway  
Dallas, Texas 75287

Re: Freedom of Information Act (FOIA) Request No. F-23-00184

Dear Mr. Landreneau:

This is in response to your correspondence dated June 27, 2023, pursuant to the Freedom of Information Act (5 U.S.C. § 552), requesting a copy of:

1. Please provide copies of pay records documenting all individual bonus award payments made to each APJ from October 1, 2011 to present.
2. For avoidance of doubt, the records sought under Request 1 may include multiple payment records for the same APJ in a single fiscal year, as we seek records for *each separate* bonus award payment to the APJ, reflecting the amount, the date it was payed, and identifying the PTO transaction number of the payment.
3. For each APJ payment record of Requests 1-2, please provide the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made.

Your request for fee waiver is denied. 5 U.S.C. §552(a)(4)(A)(iii) provides that a fee be waived:

“if disclosure of information is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requestor.”

“A requestor seeking a fee waiver bears the initial burden of identifying the public interest to be served.” National Treasury Employees Union v. Griffin, 811 F.2d 644, 647 (D.C. Cir. 1987). Such a requestor must show that disclosure would contribute to the public’s understanding of the operation or activities of the government since a fee waiver necessarily involves the “expenditure of public funds.” Ely v. United States Postal Service, 753 F.2d 163, 165 (D.C. Cir. 1985).



Your request does not articulate the public interest to be served or how such information would contribute to the public's understanding of Government activities.

Your letter fails to establish that the information requested will significantly add to the public's understanding of the operations of the USPTO. The letter merely indicates a general claim that " the requested records directly concern and bear upon the government's operations and activities, will be highly informative to the general public regarding the PTO's policies, including on matters directly affecting thousands of patent holders and applicants" but you fail to articulate in any meaningful way how the requested information will in fact contribute to the public interest. See Judicial Watch v. U.S. Dep't of Justice, 185 F.Supp. 2d 54, 59 (D.D.C. 2002)(stating that requester must show that disclosure will contribute to understanding of "reasonably broad audience of persons").

Accordingly, your request for a public interest fee waiver is denied.

Preliminary estimates indicate that the approximate processing cost of this FOIA request is \$ **588.47**. Associated copying charges cannot be estimated until a final determination regarding releasability is made.

This estimate does not necessarily represent the final cost. Estimates are inherently imprecise, and the final cost could be higher or lower than the amount provided here. However, the estimate provided herein is reasonably calculated to represent search costs required to adequately respond to your request.

As a non-commercial use FOIA requester, you are responsible for a search (excluding the first two hours) and for duplication (excluding the first 100 pages). See 37 C.F.R. § 102.11(c)(1)(iv).

Please note that a search fee is chargeable even when no responsive records are found, or when the records requested are determined to be totally exempt from disclosure. See 37 C.F.R. § 102.11(c)(3)(i).

Since the estimate exceeds \$250.00, you are required to pay the entire amount estimated before a search can begin. See 37 C.F.R. § 102.1(i)(2).

Please remit, within 30 calendar days of the date of this letter, a check made payable to the "Department of Treasury" in the amount of \$ **588.47**. The payment may be sent to:

United States Patent and Trademark Office  
Freedom of Information Act Officer  
Office of the General Counsel  
P.O. Box 1450

If payment in full is not received by **August 28, 2023**, this request will be considered withdrawn and closed. Please contact us before that date, however, if you would like to discuss your request in order to reformulate it to meet your needs at a reduced cost.

This fee waiver denial constitutes a partial denial of your request for records under the FOIA. The undersigned is the denying official. You have the right to appeal this initial decision to the General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. An appeal must be received within 90 calendar days from the date of this letter. See 37 C.F.R. § 102.10(a). The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial denial is in error. Both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

Sincerely,

A handwritten signature in cursive script that reads "Traci Alexander".

Traci Alexander  
FOIA Specialist  
Office of General Law

## **ATTACHMENT 4**

**USI Response with payment, August 4, 2023**



August 4, 2023

**VIA REGISTERED MAIL**

**COPY VIA E-MAIL** [FOIARequests@uspto.gov](mailto:FOIARequests@uspto.gov); [efoia@uspto.gov](mailto:efoia@uspto.gov)

United States Patent and Trademark Office  
Freedom of Information Act Officer  
Office of the General Counsel  
P.O. Box 1450  
Alexandria, VA 22313-1450

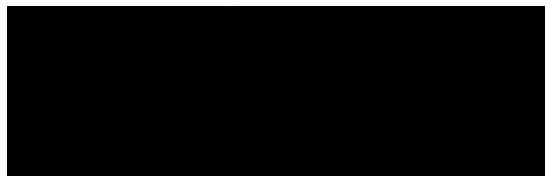
**Re: US Inventor Freedom of Information Act Request F-23-00184**

Dear FOIA Officer:

In the Interim Response of the U.S. Patent & Trademark Office (PTO) of July 27, 2023 regarding the above-captioned FOIA request, you have denied our fee-waiver request, and demanded that we pay the estimated amount of \$ 588.47 in order that the PTO's search for responsive records begins. We disagree with your reasons for denial of the fee waiver, which we will soon appeal. However, in the interim we are now making the requested payment in full under protest in order to avoid any delay in the search and production of responsive records.

Attached is a check made out to the "Department of Treasury" for the amount of **\$ 588.47** as requested. We may be reached at the address below, if you have any questions.

Respectfully submitted,



US INVENTOR

Randy Landreneau  
President  
P.O. Box 2273,  
Clearwater, FL 33757

[rlinventor@protonmail.com](mailto:rlinventor@protonmail.com)  
727-744-3748

**UNITED STATES POSTAL SERVICE** **POSTAL MONEY ORDER**

Serial Number: 27718960860      Year, Month, Day: 2023-08-04      Post Office: 337551      U.S. Dollars and Cents: \$588.47

Amount: Five Hundred Eighty Eight Dollars and 47/100 \*\*\*\*\*

Pay to: United States Treasury      Clerk: 11

Address: U.S. Inventor  
PO Box 2273  
Clearwater, FL 33757

Memo: F.O.I.A. F-23-00184 \*\*\*\*\*

SEE REVERSE WARNING • NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS

⑆00000800⑆      27718960860⑈

**UNITED STATES POSTAL SERVICE** **CUSTOMER'S RECEIPT**

SEE BACK OF THIS RECEIPT FOR IMPORTANT CLAIM INFORMATION  
**NOT NEGOTIABLE**

Pay to: \_\_\_\_\_  
Address: \_\_\_\_\_

KEEP THIS RECEIPT FOR YOUR RECORDS

Serial Number: 27718960860      Year, Month, Day: 2023-08-04      Post Office: 337551      Amount: \$588.47      Clerk: 11

Registered No. RE13207107105      1746

Date Stamp: AUG - 4 2023

To Be Completed By Post Office	Postage \$	\$0.00	Extra Services & Fees (continued)
	Extra Services & Fees		<input type="checkbox"/> Signature Confirmation \$
	<input type="checkbox"/> Registered Mail \$	\$16.80	<input type="checkbox"/> Signature Confirmation Restricted Delivery \$
	<input type="checkbox"/> Return Receipt (hardcopy) \$	\$0.00	<b>Total Postage &amp; Fees</b>
	<input type="checkbox"/> Return Receipt (electronic) \$	\$0.00	\$17.80
	<input type="checkbox"/> Restricted Delivery \$	\$0.00	Customer Must Declare Full Value \$0.00
	Received by	08/04/2023	Domestic Insurance up to \$50,000 is included based upon the declared value. International Indemnity is limited. (See Reverse).

**OFFICIAL USE**

FROM: CLEARWATER, FL 33755  
R. Land Relean  
PO Box 2273  
Clearwater, FL 33757

TO: U.S.P.T.O. F.O.I.A. Officer  
Office of the General Counsel  
P.O. Box 1450  
Alexandria, VA 22313-1450

PS Form 3806, Registered Mail Receipt      Copy 1 - Customer  
April 2015, PSN 7530-02-000-9051      (See Information on Reverse)  
For domestic delivery information, visit our website at www.usps.com®

## **ATTACHMENT 5**

**USPS Proof of Delivery to PTO on August 14, 2023**

Tracking Number:

Remove X

# RE132071071US

**Copy**    **Add to Informed Delivery**  
(<https://informedelivery.usps.com/>)

## Latest Update

Your item has been delivered to an agent for final delivery in ALEXANDRIA, VA 22314 on August 14, 2023 at 8:02 am.

### Delivered to Agent Delivered to Agent for Final Delivery

ALEXANDRIA, VA 22314  
August 14, 2023, 8:02 am

### Arrived at Post Office

ALEXANDRIA, VA 22314  
August 14, 2023, 5:33 am

### Arrived at USPS Facility

MERRIFIELD, VA 22081  
August 14, 2023, 12:58 am

### Departed USPS Facility

WASHINGTON, DC 20066  
August 12, 2023, 9:32 am

### In Transit to Next Facility

August 11, 2023

### Arrived at USPS Regional Destination Facility

WASHINGTON DC DISTRIBUTION CENTER  
August 7, 2023, 11:44 pm

### Arrived at USPS Facility

TAMPA, FL 33630  
August 5, 2023, 7:15 am

### USPS in possession of item

CLEARWATER, FL 33755  
August 4, 2023, 1:15 pm

Feedback





September 1, 2023

Dear randall landreneau:

The following is in response to your request for proof of delivery on your item with the tracking number: **RE13 2071 071U S.**

#### Item Details

<b>Status:</b>	Delivered to Agent for Final Delivery
<b>Status Date / Time:</b>	August 14, 2023, 8:02 am
<b>Location:</b>	ALEXANDRIA, VA 22314
<b>Postal Product:</b>	First-Class Mail®
<b>Extra Services:</b>	Registered Mail™

#### Shipment Details

<b>Weight:</b>	1.0oz
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#### Recipient Signature

Signature of Recipient:  
(Authorized Agent)

*Sidney R. Dyar*  
Sidney R Dyar

Address of Recipient:

1450 - 1451

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

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United States Postal Service®  
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Washington, D.C. 20260-0004





The United States Patent and Trademark Office  
an agency of the Department of Commerce

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**Employee Search**

**Results USPTO Employee by Last Name**

Employee Locator

**Results of Search by Last Name**

1 Record found for Name: Dyar

Employee	Phone	Extension	Office	Office Description
DYAR SIDNEY	(703)756-1376		C/OAS	OFFICE OF ADMINISTRATIVE SERVICES

Position Indicators (DIR) Director  
following Names (DIRSEC) Directors Secretary  
(HSLIE) Head Legal Instruments Examiner  
(RCPTN) Receptionist  
(SPE) Supervisory Patent Examiner

Context-sensitive help (information graphic links) will appear in a new window.

If you need help

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail [EBC@uspto.gov](mailto:EBC@uspto.gov) for specific questions about Patent e-Filing.
- Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).
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## ATTACHMENT 6

### USI Reminder letter of August 15, 2023

From: Randy Landreneau <RLinventor@protonmail.com>  
Date: On Tuesday, August 15th, 2023 at 5:43 PM  
Subject: US Inventor Freedom of Information Act Request F-23-00184  
To: FOIARequests@uspto.gov <FOIARequests@uspto.gov>, efoia@uspto.gov  
<efoia@uspto.gov>

Dear FOIA Officer,

This regards US Inventor Freedom of Information Act Request F-23-00184. The attached letter was sent and received by registered mail with a Cashier's Check for \$588.47. The tracking number is RE132071071US.

Best,  
Randy

-----

Randy Landreneau, President  
US Inventor, Inc.  
www.USinventor.org  
727-744-3748

"Without the creative disruption of inventors, a few corporations will control EVERYTHING."

Sent with [Proton Mail](#) secure email.

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Attaching the payment letter of August 4, 2023 (reproduced in Attachment 4).

## **ATTACHMENT 7**

**PTO Final determination letter of September 8, 2023**



**UNITED STATES PATENT AND TRADEMARK OFFICE**

OFFICE OF THE GENERAL COUNSEL

September 8, 2023

**VIA EMAIL**

Mr. Randy Landreneau  
U.S. Inventor  
17440 Dallas Parkway  
Dallas, TX 75287

RE: ***Freedom of Information Act (FOIA) Request No. F-23-00184***

Dear Mr. Landreneau:

The United States Patent and Trademark Office (USPTO) FOIA Office has received your e-mail dated June 28, 2023 requesting a copy of the following documents pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. § 552:

Documents regarding bonus award payments to Administrative Patent Judges (APJs) from October 1, 2011 to June 28, 2023.

The USPTO has identified information that is responsive to your request. However, the response is withheld in full pursuant to Exemption (b)(6) of the FOIA.

Exemption (b)(6) of the FOIA, which permits the withholding of “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” 5 U.S.C. § 552(b)(6). The term “similar files” has been broadly construed to cover “detailed Government records on an individual which can be identified as applying to that individual.” Dep’t of State v. Washington Post, 456 U.S. 595, 601 (1982). Information that applies to a particular individual meets the threshold requirement for Exemption (b)(6) protection. Id. The privacy interest at stake belongs to the individual, not the agency. See Dep’t of Justice v. Reporter’s Comm. for Freedom of the Press, 489 U.S. 749, 763-65 (1989). Exemption (b)(6) requires a balancing of an individual’s right to privacy against the public’s right to disclosure. See Dep’t of the Air Force v. Rose, 425 U.S. 352, 372 (1976); Multi Ag Media LLC v. Dep’t of Agric., 515 F.3d 1224, 1228 (D.C. Cir. 2008).

Here, the bonus information is directly tied to performance ratings. The ratings and the corresponding bonus amounts apply to particular individuals, and is information in which those individuals have a legitimate privacy interest. The burden is on the requester to establish that disclosure of this information would serve the public interest. See Bangoura v. Dep’t of the Army, 607 F. Supp. 2d 134, 148-49 (D.D.C. 2009). When balancing the public interest of release against individual privacy interest, the Supreme Court has made clear that information

that does not directly reveal the operations or activities of the federal government falls outside the ambit of the public interest. See Reporters Comm., 489 U.S. at 775. The withheld information does little to shed light or contribute significantly to public understanding of the operations or activities of the USPTO. Your FOIA request does not assert a public interest that outweighs the privacy interest, nor is one otherwise evident. As such, the FOIA dictates that the information be withheld.

As required by the FOIA Improvement Act of 2016 and Department of Justice guidance, USPTO has conducted a foreseeable harm review and reasonably foresees that disclosure of the withheld material would harm an interest protected by a FOIA exemption.

You may contact the FOIA Public Liaison at 571-272-9585 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

You have the right to appeal this initial decision to the Deputy General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, or you may submit an appeal electronically to [FOIARequests@USPTO.gov](mailto:FOIARequests@USPTO.gov). An appeal must be received within 90 calendar days from the date of this letter. The appeal must be in writing. You must include a copy of your original request, this letter, and a statement of the reasons why the information should be made available and why this initial denial is in error. If you submit your appeal by mail, both the letter and the envelope must be clearly marked "Freedom of Information Appeal."

Sincerely,



Louis J. Boston Jr.  
USPTO FOIA Officer  
Office of General Law



# United States Patent and Trademark Office

Office of the General Counsel

October 20, 2023

**VIA EMAIL**

Mr. Randy Landreneau  
U.S. Inventor

RE: *Freedom of Information Act Appeal No. A-23-00016 (Appeal of Request No. F-23-00184)*

Dear Mr. Landreneau:

This determination responds to your letter dated September 20, 2023, to the United States Patent and Trademark Office (“USPTO” or “Agency”). This appeal is related to Freedom of Information Act (“FOIA”) Request No. F-23-00184. Your appeal was received by the USPTO on September 21, 2023, and has been docketed as FOIA Appeal No. A-23-00016.

## FOIA Request and Response

In your initial request, dated June 27, 2023, you requested the following:

1. Please provide copies of pay records documenting all individual bonus award payments made to each [Administrative Patent Judge (“APJ”)] from October 1, 2011 to present.
2. For avoidance of doubt, the records sought under Request 1 may include multiple payment records for the same APJ in a single fiscal year, as we seek records for each separate bonus award payment to the APJ, reflecting the amount, the date it was paid [sic], and identifying the PTO transaction number of the payment.
3. For each APJ payment record of Requests 1-2, please provide the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made.

In your initial request, you requested a public interest fee waiver in the event that the USPTO intended to assess fees for this request.

On July 27, 2023, the Agency informed you that your request for a public interest fee waiver was denied because your request did not articulate the public interest to be served or how such information would contribute to the public’s understanding of the operations of the UPSTO. *See* Fee Waiver Denial (FOIA Request F-23-00184). The Agency provided you with a preliminary fee estimate of \$588.47 and

FOIA Appeal No. A-23-00016

Page 2 of 9

advised you that since the estimate exceeded \$250.00, you were required to pay the entire amount estimated before a search could begin. You subsequently remitted payment.

The Agency responded to your FOIA request on September 8, 2023, and informed you that information had been identified that is responsive to your request but that it was withheld in full pursuant to Exemption (b)(6) of the FOIA. *See* Initial Determination (FOIA Request No. F-23-00184). The response explained that the bonus information you requested is directly tied to performance ratings that apply to particular individuals, and therefore is information in which those individuals have a legitimate privacy interest. The response further explained that your FOIA request does not assert a public interest that outweighs the privacy interest, and therefore the information was being withheld.

### Appeal

You appealed the Agency's denial of your fee waiver and the initial determination by letter dated September 20, 2023. In your appeal, you assert that the USPTO ignored your request No. 3 for "the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made." You claim that the USPTO unlawfully used Exemption (b)(6) to withhold employee's bonus award information because a regulation requires that information on "[p]resent and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount" must be made "available to the public." You also challenge the denial of your fee waiver request on the basis that disclosure of information relating to performance awards would serve the public interest and that you have already posted other bonus award information of senior PTAB officials on your public website and intend to do the same with the information sought in this request. You also assert that USPTO forfeited the right to charge fees for this request because it did not provide a final determination on your request within 20 business days.

### Fee Waiver

I will first address your appeal of the denial of your public interest fee waiver request. Under 37 C.F.R. § 102.11(k), analyzing a fee waiver request entails determining whether the requester has demonstrated that:

- (i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government; and
- (ii) Disclosure of the information is not primarily in the commercial interest of the requester.

*See also* 5 U.S.C. § 552(a)(4)(A)(iii). "The requestor bears the initial burden of proving both prongs." *Schoenman v. FBI*, 604 F. Supp. 2d 174, 188 (D.D.C. 2009). Requests for fee waivers "must be made with reasonable specificity ... and based on more than conclusory allegations." *Jud. Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003).

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In order to determine whether disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of government operations or activities, “disclosure of the requested information must: (1) shed light on ‘the operations or activities of the government’; [and] (2) be ‘likely to contribute significantly to public understanding’ of those operations or activities.” *Cause of Action v. FTC*, 799 F.3d 1108, 1115 (D.C. Cir. 2015).

First, the requester must demonstrate that the subject matter of the requested records, in the context of the request, concern identifiable “operations or activities of the government.” I find that your request for salary and bonus information of government employees meets this requirement.

Second, when considering whether information is “likely to contribute significantly to public understanding,” the relevant analysis includes assessing “the degree to which ‘understanding’ of government activities will be advanced by seeing the information” and “the extent of the ‘public’ that the information is likely to reach.” *Cause of Action*, 799 F.3d at 1116. Courts have typically evaluated the identity and qualifications of the requester—e.g., their expertise in the subject area of the request and ability and intention to disseminate the information to the public—in order to determine whether the public would benefit from disclosure to that requester. In your initial request, you stated generally that you would “make these records or their analysis publically [sic] available on our website at [www.usinventor.org](http://www.usinventor.org) for use by journalists, scholars, students, and interested members of the public at no charge, and use the information in reports, newsletters ([www.usinventor.org/subscribe](http://www.usinventor.org/subscribe)), and other public disseminations to advance our educational mission.” In your appeal, you reiterate that you intend to post the requested information on your public website. You also assert that “it must be *presumed* that the PTO is informed of the relevant Civil Service regulation in 5 C.F.R. § 293.311(a)(4) and FOIA case law that inherently ‘articulate in ... meaningful way *how the requested information will in fact contribute to the public interest.*’” However, the burden is on the requester to demonstrate how the specific information requested will “likely to contribute significantly to public understanding,” 5 U.S.C. § 552(a)(4)(A)(iii), and your “conclusory allegations” are insufficient to satisfy your burden. *Jud. Watch, Inc.*, 326 F.3d at 1312. I find that you have not provided sufficient information to satisfy this factor.

Once an agency determines that a requester has met the “public interest” requirements for a fee waiver, the FOIA requires that “disclosure of the information” not be “primarily in the commercial interest of the requester.” Although as discussed above, I have not found that you have satisfied the “public interest” requirements, I also note that you have not demonstrated that the disclosure of the requested information would not be primarily in the commercial interests of your organization. “Information is commercial if it relates to commerce, trade or profit.” *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987). Although you describe U.S. Inventor as a not-for-profit corporation and vaguely reference an “educational mission,” these bare allegations do not negate a commercial interest. See *VoteHemp, Inc. v. Drug Enf’t Admin.*, 237 F. Supp. 2d 55, 65 (D.D.C. 2002) (concluding nonprofit organization, an “advocate for a free market in industrial hemp, has a commercial interest in the information that it seeks to have disclosed”).



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Accordingly, I find that your request for a public interest fee waiver was properly denied. I also find your other arguments about the fee assessment unavailing, and I conclude the assessment of fees prior to the Agency's search was appropriate in this case.

### FOIA Exemption (b)(6)

The Agency's search in response to your initial request resulted in a 93-page report that lists all monetary awards given to APJs from October 1, 2011, through August 24, 2023 (the date the report was generated). The report includes the fiscal year, APJ name, APJ base salary, award date, award amount, and a code and corresponding description used in the Agency's personnel system. The report includes year-end bonuses, which are based on APJs' annual performance ratings; awards that were granted as part of a temporary production-based "gain-sharing" program for APJs, which were based on APJs' production level and which had rating-based eligibility requirements; and other monetary (or equivalent) awards granted to APJs, including individual or group special act awards, which recognize distinguished achievements or significant contributions that are not based upon an employee's regular performance appraisal rating of record nor otherwise recognized by a performance-rating based award, and time-off awards. The FOIA Officer withheld this report in full on the basis of Exemption (b)(6) because the APJs' bonus information is directly tied to performance ratings that apply to particular individuals, and therefore is information in which those individuals have a legitimate privacy interest.

The FOIA requires Federal agencies to release requested records to any person unless the requested information falls within a specific statutory exemption. 5 U.S.C. §§ 552(a)(3), 552(b). FOIA Exemption (b)(6) provides that an agency shall not disclose "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6).

In assessing whether information is protected from release under Exemption (b)(6), the first inquiry is whether the requested records are "personnel and medical files and similar files." *See Multi Ag Media LLC v. U.S. Dep't of Agric.*, 515 F.3d 1224, 1228 (D.C. Cir. 2008). All information that "applies to a particular individual" meets the threshold requirement for Exemption (b)(6) protection. *See Dep't of State v. Wash. Post Co.*, 456 U.S. 595, 602 (1982); *see also Associated Press v. DOD*, 554 F.3d 274, 291 (2d Cir. 2009) (explaining that "[t]he phrase 'similar files' has a broad meaning and encompasses the government's records on an individual which can be identified as applying to that individual"); *Forest Serv. Employees for Env'tl. Ethics v. Forest Svc.*, 524 F.3d 1021, 1024 (9th Cir. 2008) (stating that the threshold test of Exemption (b)(6) is satisfied when government records contain information applying to particular individuals). You do not appear to dispute that the records you requested would constitute "personnel" or "similar files" within the meaning of 5 U.S.C. § 552(b)(6), and I find that the awards report falls squarely within the coverage of this exemption.

Having determined that the report is covered by Exemption (b)(6), the next question is whether disclosure of this record "would compromise a substantial, as opposed to *de minimis*, privacy interest." *Nat'l Ass'n of Retired Fed. Emps. v. Horner*, 879 F.2d 873, 874 (D.C. Cir. 1989). The D.C. Circuit has

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explained that the “standard at this stage is not very demanding” and “means less than it might seem.” *Multi Ag*, 515 F.3d at 1229, 1230. A “substantial interest” is anything greater than a “*de minimis* interest.” *Id.* at 1229-1230.

Courts have found that information about awards “is private and disclosure implicates more than a *de minimis* privacy interest.” *Long v. Off. of Pers. Mgmt.*, 2010 WL 681321, at \*18 (N.D.N.Y. Feb. 23, 2010), *aff’d in part, rev’d in part on other grounds*, 692 F.3d 185 (2d Cir. 2012). Indeed, the case you cite in your appeal regarding the public interests in disclosing information relating to performance awards<sup>1</sup> also found that “performance award documents may contain favorable information that employees may wish to keep confidential and which, if disclosed, could: (1) subject employees to embarrassment and jealousy among co-workers; and (2) result in discord at the workplace” and that “[e]mployees who did not receive awards also may have a privacy interest in the release of performance award data because disclosure of that data could reveal information that could subject those employees to embarrassment.” *U.S. Dep’t of Transportation Fed. Aviation Admin. New England Region Bradley Air Traffic Control Tower Windsor Locks, Conn. (Respondent) & Nat’l Air Traffic Controllers Ass’n Y90 Loc., MEBA/NMU, AFL-CIO (Charging Party/Union)*, 51 F.L.R.A. 1054, 1064 (1996) (“*FAA Bradley*”). I find that the APJs have more than a *de minimis* privacy interest in all of the award information in the report, but I believe additional analysis is relevant to the year-end bonuses and the gain-sharing awards in particular.

In that regard, it is well settled that federal employees have a substantial privacy interest in the contents of their performance appraisals. *See Smith v. Dep’t of Labor*, 798 F. Supp. 2d 274, 283-85 (D.D.C. 2011) (affirming agency’s withholding of job-performance information); *People for Ethical Treatment of Animals v. U.S. Dep’t of Agric.*, 2007 WL 1720136, at \*4 (D.D.C. June 11, 2007) (finding that employee has “privacy interest in his or her employment history and job performance evaluations.” (citation omitted)). Employees have such a privacy interest whether the performance information is positive or negative. *See Fed. Lab. Rels. Auth. v. U.S. Dep’t of Com.*, 962 F.2d 1055, 1059 (D.C. Cir. 1992) (“*FLRA*”) (finding that employees who received outstanding or commendable ratings have a substantial interest in maintaining the privacy of their evaluations; “[t]hat the information here is favorable does not diminish this interest”); *Ripskis v. Dep’t of Hous. & Urb. Dev.*, 746 F.2d 1, 3 (D.C. Cir. 1984) (“disclosure of even favorable information may well embarrass an individual or incite jealousy in his or her co-workers”); *Tomscha v. Giorgianni*, 2004 WL 1234043, at \*4 (S.D.N.Y. June 3, 2004), *aff’d sub nom. Tomscha v. Gen. Servs. Admin.*, 158 F. App’x 329 (2d Cir. 2005) (“[b]oth favorable and unfavorable assessments trigger a privacy interest,” and such interest was substantial).

Accordingly, courts have also found that employees have a substantial privacy interest in the amount of an award where that information is tied to their performance appraisal or other aspects of how their

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<sup>1</sup> I note that this is a decision of the Federal Labor Relations Authority (the “Authority”), interpreting whether the FOIA and the Privacy Act would bar disclosure of information to a union making an information request pursuant to 5 U.S.C. § 7114(b)(4), and therefore it does not constitute a binding interpretation of the FOIA for purposes of this request and appeal. However, courts interpreting the FOIA have looked to Authority case law as guidance on this subject matter, and I therefore also consider their analysis in my decision.

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performance is evaluated. *See Long*, 2010 WL 681321, at \*18 (awards were properly redacted where the “total award amount, or lack thereof, is linked to an individual IRS employee and his or her employment performance, and could ... at the very least, reveal that an employee’s appraisal score was too low to merit an award”); *Tomscha*, 2004 WL 1234043, at \*4 (Exemption (b)(6) properly applied to amount of performance award which “could allow a ‘mathematical linkage’” to an employee’s performance appraisal); *see also McGuffin v. Soc. Sec. Admin.*, No. 5.16-CV-843-D, 2017 WL 3037564, at \*4 (E.D.N.C. July 18, 2017) (“The disclosure of the employee’s available hours to write decisions, the percentage of time worked on decision writing out of the employee’s total duty hours, and the learning curve that applies to the employee implicates privacy interests as well. A person can use the redacted information to identify the employee the information corresponds to, and the information reflects how one employee may be performing over other employees.”); *U.S. Dep’t of the Air Force 375th Mission Support Squadron Scott Air Force Base, Illinois (Respondent) & Nat’l Ass’n of Gov’t Emps. Loc. R7-23 SEIU, AFL-CIO (Charging Party/Union)*, 51 F.L.R.A. 599, 606-07 (1995) (Authority found performance award information was protected under FOIA Exemption (b)(6) where the “knowledge of the particular award amount an employee received would enable the [requester] to ascertain that employee’s rating”). Here, because knowing the amount of an APJ’s year-end bonus or gain-sharing award, or even that an APJ received a particular award, would provide information about that APJ’s performance ratings and/or production levels, the APJs have a substantial privacy interest in this award information.

The Exemption (b)(6) analysis next turns to balancing the individuals’ privacy interest against the public’s interest in the information. *See Multi Ag* at 1229-30. Whether to release the requested information or not turns on to what extent the public has an interest in the information. *Id.* “The only valid public interest in the FOIA context is one that serves FOIA’s core purpose of shedding light on an agency’s performance of its statutory duties.” *Smith*, 798 F. Supp. 2d at 285. “The requester has the burden of demonstrating that public interest.” *Id.*

In your appeal, you cite to *FAA Bradley*, 51 F.L.R.A. at 1064, to show that your request supports the “public interests of: (1) ensuring that the appraisal and awards systems are administered in a fair and equitable manner, without discrimination, and in accordance with laws, rules and regulations and (2) monitoring the public fisc to ensure that the agency’s expenditure of money for awards is appropriate.” I find that this asserted public interest sufficiently outweighs the APJs’ privacy interests in the information regarding awards that would not reveal information about the APJs’ performance ratings. **Therefore, I am granting your appeal in part and ordering that the information about individual or group special act awards and time-off awards be released, subject to any other applicable FOIA exemptions.**

However, I find that the APJs’ privacy interests in both the award information and the interconnected performance information for the year-end and gain-sharing awards substantially outweighs the public interest in the release of that information, and therefore the information about these awards was properly withheld under Exemption (b)(6). *See Long*, 2010 WL 681321, at \*18 (finding “employees’ interest in keeping performance based awards, or the lack thereof, private outweighs any public interest

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in disclosure of this information” where the plaintiff provided no evidence of government wrongdoing or the issuance of improper rewards); *Tomscha*, 2004 WL 1234043, at \*4 (employees’ privacy interest in amount of performance award outweighed the public’s interests in “monitoring government agencies’ use of tax dollars to distribute cash awards to its employees [... and] in ensuring that the awards are fairly distributed, and that agencies properly adhere to their stated guidelines in distributing the awards”). *Cf. FAA Bradley*, 51 F.L.R.A. 1054 at 1066 (concluding employees’ personal privacy interests in the requested performance award data do not outweigh the public interest in its disclosure *because* “there is no evidence in this case that disclosure of the requested awards information would reveal an employee’s specific performance rating or other information in performance award records that employees wish to keep confidential”).<sup>2</sup>

In your appeal, you also cite to 5 C.F.R. § 293.311(a) in support of your argument that performance award information should be made public. I agree that this regulation recognizes the public interest in certain enumerated information about present and former Federal employees, including “[p]resent and past annual salary rates (including performance awards or bonuses, incentive awards, merit pay amount, Meritorious or Distinguished Executive Ranks, and allowances and differentials).” 5 C.F.R. § 293.311(a)(4). However, I must also consider 5 C.F.R. § 293.311(b), which provides that an “agency will generally not disclose information where the data sought is a list of names, present or past position titles, grades, salaries, performance standards, and/or duty stations of Federal employees which, as determined by the official responsible for custody of the information: (1) Is selected in such a way that would reveal more about the employee on whom information is sought than the six enumerated items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (2) Would otherwise be protected from mandatory disclosure under an exemption of the FOIA.” Thus, this regulation “by its own terms, does not disarm an otherwise available FOIA exemption.” *SAI v. Transportation Sec. Admin.*, 315 F. Supp. 3d 218, 260 (D.D.C. 2018).

For the reasons discussed above, I find that the information on the report here would “reveal more about” the APJs than the enumerated items made public under § 293.311(a) and that its disclosure “would constitute a clearly unwarranted invasion of personal privacy.” *Cf. Soc. Sec. Admin. San Francisco Bay Area/(Respondent) & Am. Fed’n of Gov’t Emps. Loc. 3172 AFL-CIO (Charging Party/Union)*, 51 F.L.R.A. 58, 64 n.7 (1995) (“*SSA San Francisco*”) (Authority found that “disclosure of the requested lists would reveal information regarding each employee’s performance rating and, we conclude, would result in a clearly unwarranted invasion of the employees’ privacy”). I also note that 5 C.F.R. § 293.311(a)(6) does not require the disclosure of “actual performance appraisals,” and that

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<sup>2</sup> In your appeal, you allege that the USPTO’s FOIA Office has engaged in a pattern of withholding employee bonus information under Exemption (b)(6), and you cite to the decision in FOIA Appeal No. A-22-00004, which denied your appeal of FOIA Request No. F-21-00173, with the exception of correcting a single redaction that was made in error. To the extent that you are arguing that the employee bonus information withheld here pursuant to Exemption (b)(6) should be produced because the Agency previously produced other bonus information, this argument is misplaced. Unlike the APJ award information withheld here, the SES performance award amounts in the records produced in response to Request No. F-21-00173 (including the record for which one redaction was corrected on appeal) were not directly linked to the individual employees’ performance ratings, and therefore the individuals’ privacy interests did not outweigh the public interest in their release.



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performance elements and standards “may be withheld when they are so intertwined with performance appraisals that their disclosure would reveal an individual’s performance appraisal.” I find that this regulation supports my conclusion that the amounts of performance awards that are directly linked to APJs’ performance ratings and production levels are not required to be made public.

With respect to the year-end and gain-sharing awards, I have also considered whether any information within the individual report entries could be segregated and released. If a record contains information that is exempt from disclosure, any reasonably segregable information in the record must be released after deleting the exempt portions, unless the nonexempt portions are “inextricably intertwined with exempt portions.” *Parker v. U.S. Dep’t of Just.*, 986 F. Supp. 2d 30, 38 (D.D.C. 2013) (quoting *Wilderness Soc’y v. U.S. Dep’t of Interior*, 344 F. Supp. 2d 1, 18 (D.D.C. 2004)). However, because these awards had minimum performance rating eligibility requirements, I have concluded that the fact of a particular APJ receiving a performance-based award in and of itself reveals information about that APJ’s performance rating. In addition, the absence of a particular APJ’s name would also reveal that the APJ did *not* receive an award for a particular time frame and accordingly reveals information about their performance rating. See *FLRA*, 962 F.2d at 1059 (noting that, “of course, a list identifying those employees who received outstanding and commendable ratings reveals by omission the identities of those employees who did not receive high ratings, creating an invasion of their privacy”); *SSA San Francisco*, 51 F.L.R.A. at 64 (lists of employees whose performance was rated excellent “also would reveal, by omission, rating information of all other employees. That is, it is obvious that an employee whose name did not appear on either list would have received a rating lower than excellent.”).

Therefore, in order to protect the privacy interests of both the APJs who did receive performance-based awards and those who did not, I conclude that the entire entry for each award (including the name, base salary, and date of the award) is inextricably intertwined with the award amounts, and the entire entry for each such award is properly withheld under Exemption (b)(6).<sup>3</sup>

In conclusion, your appeal is granted in part and denied in part. I am remanding your request to the FOIA Officer to conduct a further review of the report in light of this appeal decision and to produce the report subject to any appropriate redactions under Exemption (b)(6) (as discussed herein) or any other applicable FOIA exemptions.<sup>4</sup>

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<sup>3</sup> In your appeal, you also contend that the FOIA Officer ignored your request for “the full name of the APJ and the base salary of the APJ at the time the bonus award payment was made.” This portion of your request was construed to apply only to records produced in response to your request for bonus award information. (Indeed, the opening paragraph of your initial request stated that you were seeking “records ... regarding bonus award payments,” and the first portion of the sentence quoted above stated, “For each APJ payment record of Requests 1-2 ....”) However, in accordance with this decision, the names and base salaries of the APJs found in this report will be produced in conjunction with any award information that is being released, but will be withheld pursuant to Exemption (b)(6) where the award information itself is being withheld. If you wish to separately request the names and base salaries of APJs from records that may not be protected from disclosure by Exemption (b)(6), you may do so by submitting a new FOIA request.

<sup>4</sup> In light of my decision to remand the request for production of the report subject to appropriate redactions, I am also denying the request in your appeal for dual-track processing for the 20 identified APJs.

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Final Decision and Appeal Rights

This is the final decision of the United States Patent and Trademark Office with respect to your appeal. You have the right to seek judicial review of this decision as provided in 5 U.S.C. § 552(a)(4)(B). Judicial review is available in the United States District Court for the district in which you reside or have a principal place of business, the United States District Court for the Eastern District of Virginia, or the United States District Court for the District of Columbia.

Additionally, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer 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. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510  
8601 Adelphi Road  
College Park, MD 20740-6001  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 301-837-1996  
Facsimile: 301-837-0348  
Toll-free: 1-877-684-6448

Sincerely,

Users, Shewchuk, David  
Digitally signed by Users,  
Shewchuk, David  
Date: 2023.10.20 10:49:38  
-04'00'

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David Shewchuk  
Deputy General Counsel for General Law



# Exhibit 7

## UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF THE GENERAL COUNSEL

Friday, October 20, 2023

### VIA Email

Mr. Randy Landreneau  
U.S. Inventor  
17440 Dallas Parkway  
Dallas, TX 75287

Dear Mr. Landreneau:

As indicated in the United States Patent and Trademark Office (USPTO) Office of General Counsel response dated **10/20/2023** to **FOIA Appeal No. A-23-00016**, a portion of your appeal has been remanded back to the USPTO FOIA Office for processing. This remand was received by the USPTO FOIA Office on Friday, October 20, 2023.

Your remand has been docketed as “**FOIA Request No. F-24-00014.**” Any further inquiries regarding your request should include that number. A copy of the appeal response is attached for reference and will be used as the basis for this request.

Please address all inquiries regarding your request to:

FREEDOM OF INFORMATION ACT (FOIA) OFFICER  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or via email to [foiarequests@uspto.gov](mailto:foiarequests@uspto.gov)

The Agency expects to send its response to this request no later than **Monday, November 20, 2023**. You will be notified if it appears that additional time is required. You may check on the status of your request by sending an email to [foiarequests@uspto.gov](mailto:foiarequests@uspto.gov) with your request number.

Sincerely,

USPTO FOIA Office

Enclosure