

# **EXHIBIT D**



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of Industry and Security**  
1401 Constitution Avenue, Suite 6622  
Washington, DC 20230

Gregg N. Sofer  
Husch Blackwell LLP  
111 Congress Avenue, Suite 1400  
Austin, TX 78701

Via E-mail: [gregg.sofer@huschblackwell.com](mailto:gregg.sofer@huschblackwell.com)

BIS FOIA Tracking Number: DOC-BIS-2023-010061 and DOC-BIS-2023-010062

Dear Mr. Sofer:

This letter responds to your September 27, 2023, Freedom of Information Act (FOIA) request to the Department of Commerce, Bureau of Industry and Security (BIS) for a copy of the final proposal and any accompanying attachments, exhibits, or appendices that were submitted to the End-User Review Committee (“ERC”) in support of the decision to place Yangtze Memory Technologies Corporation (“YMTC”) and Yangtze Memory Technologies Corporation (Japan) (“YMTJ”) on the BIS Entity List. We are seeking these records from BIS both in its capacity as Chair of the ERC and in its capacity as an individual member of the ERC.

BIS has completed its review and located 553 pages of responsive documents pertinent to your request. All of the records are being withheld in full under FOIA Exemptions (b)(1), (b)(3), (b)(5), and (b)(6). These exemptions are summarized as follows (for a more detailed description, please refer to the statute):

- FOIA Exemption (b)(1) exempts from disclosure classified national security information.
- FOIA Exemption (b)(3) exempts from disclosure information prohibited from disclosure by another statute. Such a statute is Section 1761(h) of the Export Control Reform Act of 2018 which protects information concerning export license applications.
- FOIA Exemption (b)(5) exempts from disclosure “inter-agency or intra-agency” government documents which are both pre-decisional and deliberative. In addition, the attorney work-product privilege and the attorney-client privilege have been incorporated into the exemption.
- FOIA Exemption (b)(6) exempts from disclosure personal private information.

If you have any questions or concerns or would like to discuss any aspect of your request, you may contact the BIS FOIA Public Liaison, Ms. Jennifer Kuo, via email at [jennifer.kuo@bis.doc.gov](mailto:jennifer.kuo@bis.doc.gov), during business hours. Please refer to your FOIA Tracking Number when contacting us.

In addition, 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  
facsimile at 202-741-5769

You have the right to appeal this full denial of your FOIA request. An appeal must be received within 90 calendar days of the date of this response letter. Address your appeal to the following office:

Assistant General Counsel for Employment  
Litigation and Information  
U.S. Department of Commerce  
Office of the General Counsel, Room 5896  
1401 Constitution Ave., NW  
Washington, D.C. 20230

An appeal may also be sent by e-mail to [FOIAAppeals@doc.gov](mailto:FOIAAppeals@doc.gov). The appeal should include a copy of the original request and initial denial, if any. All appeals should include a statement of the reasons why the records requested should be made available and why the adverse determination was in error.

The appeal letter, the envelope, and the e-mail subject line should be clearly marked "Freedom of Information Act Appeal." The e-mail and office mail are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box or the office after normal business hours will be deemed received on the next normal business day. If the 90th calendar day for submitting an appeal falls on a Saturday, Sunday or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely.

Sincerely,



Keven Valentin  
Chief Financial Officer and  
Director of Administration

Attachment(s)

