DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20005

INSPECTOR GENERAL
FOR TAX
ADMINISTRATION

November 6, 2017

Roy D. Oppenheim
Oppenheim Law
2500 Weston Road, Suite 404
Weston, Florida 33331

Dear Mr. Oppenheim:

This is in response to your Freedom of Information Act (FOIA) request, sent and received on October 10, 2017, seeking access to records maintained by the Treasury Inspector General for Tax Administration (TIGTA).

Specifically, you are seeking the following regarding "Recurring Request for files regarding TIGTA Claim #54-1609-0023-C and the corresponding April 10, 2014, TIGTA submission":

> documents and information regarding TIGTA Claim #54-1609-0023-C, as well as all documents and information concerning the previous unacknowledged submission made on April 10, 2014, concerning the same matter. This request seeks all documents in the possession of the Treasury Inspector General for Tax Administration's Office that provide information on or meet the following criteria:
>
> > All communications generated and received by the Treasury Inspector General for Tax Administration's Office including, but not limited to, both electronic media and actual paper documents of mail, emails, charts, graphs, memorandums, reports, agendas of meetings, minutes of meetings, notes from conversations and any other documents within the possession of the Treasury Inspector General Tax Administration's Office that discuss TIGTA Claim #54-1609-0023C, as well as the previous submission made on April 10, 2014.

On October 12, 2017, we contacted you and Ms. Olga Torres via e-mail to clarify the records you were seeking, as this appeared to be the exact same request that was sent to us on April 20, 2017, and we responded to on May 16, 2017.

On October 13, 2017, Ms. Torres clarified your request via e-mail as follows: "In connection to the above-referenced matter, we are seeking any information/update that we are entitled to on the file since our last request on April 20, 2017, which was answered May 16, 2017."

EXHIBIT

6

2

To the extent you are requesting documents pertaining to a third party, TIGTA can neither admit nor deny the existence of responsive records. Your request seeks access to the types of documents for which there is no public interest that outweighs the privacy interests established and protected by the FOIA (5 U.S.C. §§ 552(b)(7)(C) and (b)(6)). This response should not be taken as an indication that such records exist; rather it is our standard response to requesters seeking records on third parties.

We have enclosed an Information Sheet that explains your administrative appeal rights. If you file an appeal, your appeal must be in writing, signed by you, and postmarked or electronically transmitted within ninety (90) days from the date of this letter. You should address the envelope as follows:

> Freedom of Information Act Appeal
> Treasury Inspector General for Tax Administration
> Office of Chief Counsel
> City Center Building
> 1401 H Street, NW, Suite 469
> Washington, DC 20005

The cost incurred to process your FOIA request was less than $25.00, the threshold set by Treasury's FOIA regulation, so no fees were assessed.

If you have any questions, please contact Government Information Specialist Diane Bowers (202) 927-7043 or Diane.Bowers@tigta.treas.gov and refer to case #2018-FOI-00005. You may contact me, TIGTA's FOIA Public Liaison, at (202) 622-4068 for further assistance or 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, MD 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

Diane K Bowers

Diane K. Bowers
(For) Amy P. Jones
Disclosure Officer and
FOIA Public Liaison

Enclosure

Information on a TIGTA Determination to Withhold Records Exempt From the Freedom of Information Act – 5 U.S.C. § 552

Appeal Rights

You may file an appeal with the Treasury Inspector General for Tax Administration (TIGTA) within 90 days after we (1) determine to withhold records, (2) determine that no records exist, or (3) deny a fee waiver or a favorable fee category. If some records are released at a later date, you may file an appeal within 90 days from the date the last records were released. The appeal must be in writing, signed by you, and postmarked or electronically transmitted within 90 days from the date of the response letter. You must provide the following information: your name and address; description of the requested records; date of the initial request (and a copy, if possible); date of the letter denying the request (and a copy, if possible). You should mail your appeal to:

> Freedom of Information Act Appeal
> Treasury Inspector General for Tax Administration
> Office of Chief Counsel
> City Center Building
> 1401 H Street, NW, Suite 469
> Washington, DC 20005

Judicial Review

If we deny your appeal, or if we do not send you a reply within 20 days (not counting Saturdays, Sundays, or legal public holidays) after the date we receive the appeal, you may file a complaint with the U.S. District Court in the district where (1) you reside, (2) your principal place of business is located, or (3) the records are located. You may also file in the District Court for the District of Columbia.

Any proceedings in district court will be governed by the Federal Rules of Civil Procedure. Under Rule 4(i)(1) and (2), service on the Department of the Treasury may be effected by delivering copies of the summons and complaint: (a) personally, upon the U.S. Attorney (or his designee) for the district where the lawsuit is brought; (b) via registered or certified mail, upon the Attorney General of the United States at Washington, D.C.; and (c) via registered or certified mail to:

> Treasury Inspector General for Tax Administration
> Office of Chief Counsel
> City Center Building
> 1401 H Street, NW, Suite 469
> Washington, DC 20005

In such a court case, the burden is on the Treasury Inspector General for Tax Administration to justify withholding the requested records, determining that no records exist, or denying a fee waiver or a favorable fee category. The court may assess against the United States reasonable attorney fees and other litigation costs incurred by the person who takes the case to court and who substantially prevails. You will have substantially prevailed if the court determines, among other factors, that you had to file the lawsuit to obtain the records you requested and that the Treasury Inspector General for Tax Administration had no reasonable grounds to withhold the records.

Exemptions

Not all records can be released under the FOIA. Congress established certain categories of information that are not required to be released in response to a FOIA request because release could be harmful to a government or private interest. These categories are called "exemptions" from disclosures. There are nine categories of exempt information and each is described below.

(b)(1)   (A) Specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(b)(2)   Related solely to the internal personnel rules and practices of an agency;

(b)(3)   Specifically exempted from disclosure by statute (other than section 552b of this title), if that statute--

    (A)   (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

        (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

    (B)   if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.

(b)(4)   Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(b)(5)   Inter-agency or intra-agency memorandums or letters which that would not be available by law to a party other than an agency in litigation with the agency, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested;

(b)(6)   Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(b)(7)   Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

    (A)   could reasonably be expected to interfere with enforcement proceedings,

    (B)   would deprive a person of a right to a fair trial or an impartial adjudication,

    (C)   could reasonably be expected to constitute an unwarranted invasion of personal privacy,

    (D)   could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

    (E)   would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

    (F)   could reasonably be expected to endanger the life or physical safety of any individual;

(b)(8)   Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(b)(9)   Geological and geophysical information and data, including maps, concerning wells.