

# EXHIBIT C

U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Attn: FOIA/PA Appeals Office  
P.O. Box 648010  
Lee's Summit, MO 64064-8010



U.S. Citizenship  
and Immigration  
Services

APP2020000490

April 9, 2020

Emily Ryo  
721 16th Street  
699 Exposition Blvd  
Santa Monica,

Dear Emily Ryo:

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office on March 17, 2020 regarding persons who filed an application for naturalization (N-400) with USCIS from Sept 12, 2013 to the present.

After receiving USCIS's FOIA response, your objections to that response, numbered one through five, appeal the search cut-off date of August 6, 2018 and request anonymized ID's to identify individuals across separate tables, where applicable. You appeal the withholding of certain information under Exemption (b)(6) of the FOIA and request current translation files for fields containing coded entries and detailed notes on the database query and limitations of the data, including explanations of any changes to the way any given field might have been coded over time. Finally, you request explanation for data that was missing from the production.

With respect to the withholding of information under Exemption (b)(6) of the FOIA, after careful consideration of your appeal, and as a result of discussions with the National Records Center, I have decided that disclosure of certain information you requested would not constitute a clearly unwarranted invasion of privacy. I am therefore providing you with the enclosed newly redacted spreadsheets.

Information on these spreadsheets has been redacted pursuant to 5 U.S.C. § 552 (b)(6) the FOIA. This information is not appropriate for discretionary release.

The following exemptions are applicable:

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, drivers' licenses, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

With respect to the remainder of your objections, you are asking USCIS to answer questions about its records response, explain its records response and to supplement that response. However, FOIA does not require USCIS to do what your appeal requests.

The FOIA does not require an agency to answer questions. See, e.g., *Jean-Pierre v. BOP*, 2012 WL 3065377, at \*6 (D.D.C. July 30, 2012) (finding FOIA request that poses questions is improper); *Thomas v. Comptroller of the Currency*, 684 F. Supp. 2d 29, 33 (D.D.C. 2010) ("To the extent that plaintiff's FOIA requests were questions or requests for explanations...these are not proper FOIA requests"); *Frank v. Dep't of Justice*, 941 F.Supp. 4, 5 (D.D.C. 1996) (stating that an agency is not required to "dig out all the information that might exist, in whatever form or place it might be found, and to create a document that answers plaintiff's questions").

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Instead, FOIA requires that an agency undertake a FOIA search “reasonably calculated to uncover all relevant documents,” *Weisberg v. DOJ*, 326 F. App’x 591, 592 (2d Cir. 2009). USCIS conducted a reasonable search and provided all responsive, non-exempt documents it found in response to your FOIA request.

The fact that some records may not be readily understandable by a requester does not mean that FOIA requires a responding agency to supplement its FOIA response and answer a requester’s follow-up questions seeking clarification of the data provided. “FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters.” *Bloeser v. Dep’t of Justice*, 811 F. Supp. 2d 316, 321 (D.D.C. 2011); see also *Nat’l Security Counselors v. CIA*, 960 F.Supp. 101, 10 n. 28 (D.D.C. 2013) (FOIA was not intended to permit the public to “commandeer agency employees as research assistants”).

Moreover, your appeal seeking explanation and reconciliation of the data provided goes beyond what FOIA requires of agencies. FOIA requires disclosure of only records “which the agency has decided for its own reasons to create.” *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 162 (1975). “To qualify as agency records, the requested information must either be created or obtained by the agency and within its control at the time the FOIA request is made,” *FLRA v. Dep’t of Veterans Affairs*, 958 F.2d 503, 508 (2d Cir. 1992), and that “have come into the agency’s possession in the legitimate conduct of its official duties.” *Dep’t of Justice v. Tax Analysts*, 492 U.S. 136, 145 (1989).

In requesting that USCIS substitute a name field with anonymized ID to identify individuals across separate tables, where applicable, you are, in effect, requesting that the agency create a new, unique record to meet your purposes, however, “the FOIA imposes no duty on the agency to create records.” *Forsham v. Harris*, 445 U.S. 169, 186 (1980). “FOIA does not require an agency to create documents that do not exist or to collect disparate data and then generate an agency record.” *Carson v. U.S. Office of Special Counsel*, 534 F. Supp. 2d 99, 102-03 (D.D.C. 2008). *Ctr. for Pub. Integrity v. FCC*, 505 F. Supp. 2d 106, 114 (D.D.C. 2007) (concluding that plaintiff’s suggestion that agency delete some data and replace it with data suggested by plaintiff amounts to creation of new records, something not required under FOIA). See also *Rubman v. USCIS*, 800 F.3d 381, 390 n. 5 (7th Cir. 2015) (finding FOIA does not require USCIS to create a statistical data table for plaintiff because it was not a preexisting internal document).

Nor does FOIA require an agency to supplement its FOIA response. See *James, v. U.S. Secret Serv.*, 811 F. Supp. 2d 351, 358 (D.D.C. 2011) (noting that agencies are not “require[d] to update or supplement a prior response to a request for records); see also *Coven v. OPM*, No. 07-1831, 2009 WL 3174423, at \*5-10 (D. Ariz. Sept. 29, 2009) (agreeing that agency is not required to produce records created after agency responded).

The scope of a request has both substantive and temporal aspects. Courts have recognized that an agency’s search obligations for each request necessarily have a temporal limitation, or a “cut-off” date. Records created after the “cutoff” date are treated as not responsive to the request, however, you are welcome to submit a new request specifying new search date parameters. See *Bonner v. U.S. Dept. of State*, 928 F.2d 1148, 1152 (D.C. Cir. 1991) (finding that “[t]o require an agency to adjust or modify its FOIA responses based on post-response occurrences could create an endless cycle of judicially mandated reprocessing”); *Church of Scientology v. IRS*, 816 F. Supp. 1138, 1148 (W.D. Tex. 1993) (observing that “there has to be a temporal deadline for documents that satisfy [a FOIA] request”), appeal dismissed by stipulation, No. 93-8431 (5th Cir. Oct. 21, 1993)

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

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The Office of Government Information Services (OGIS), the Federal Freedom of Information Act (FOIA) Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal Agencies. The contact information for OGIS is:

Office of Government Information Services

National Archives and Records Administration

8601 Adelphi Road – OGIS

College Park, MD 20740-6001

Telephone: 202-741-5770 or 877-684-6448

Email: [ogis@nara.gov](mailto:ogis@nara.gov)

Website: [ogis.archives.gov](http://ogis.archives.gov)

The OGIS does not have the authority to handle requests made under the Privacy Act of 1974.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan D. Hughes". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Alan D. Hughes, Associate Counsel  
U.S. Citizenship and Immigration Services