



Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

January 24, 2012

Lisette Garcia, Esq.
Judicial Watch
425 Third Street, S.W.
Suite 800
Washington, DC 20024

Subject: Freedom of Information Act ("FOIA") Appeal No. 2011-00039

Dear Ms. Garcia:

This responds to your appeal under the FOIA, 5 U.S.C. § 552, that was received on September, 22, 2011. In your appeal, you sought access to materials that were withheld in response to your July 12, 2011, FOIA request for information related to SF 50s for OCC personnel receiving more than \$225,000 in total compensation.

Having reviewed this matter, we have determined that some of the information that was previously withheld from you should be provided to you. Previously we redacted four "First Action" items: 5-A. Code; 5-B. Nature of Action; 5-C. Code; and 5-D. Legal Authority, and four "Second Action" items: 6-A. Code; 6-B. Nature of Action; 6-C. Code; and 6-D. Legal Authority. We also redacted item 35. FLSA Category. We are now disclosing this data to you on the enclosed SF 50s.

However, to protect the personal privacy of OCC employees under 5 U.S.C. § 552(b)(6), we continue to redact the following six items related to the employee's previous salary: 12. Total Salary; 12A. Basic Pay; 12B. Locality Adj.; 12C. Adj. Basic Pay; 12D. Other Pay; and 45. Remarks. As you know, 5 U.S.C. § 552(b)(6) exempts from disclosure under the FOIA information about individuals when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." As Mr. Vance stated in his August 22, 2011 letter to you, we are withholding this information since its release would allow for the disclosure of performance evaluation ratings which are themselves protected from disclosure under (b)(6). Because there is a "mathematical linkage" between the amount of any award and the employee's performance appraisal, it is appropriate to protect this information under (b)(6).¹ However, we have provided you the five salary items as it relates to the employee's current salary.

¹ Tomscha v. GSA,

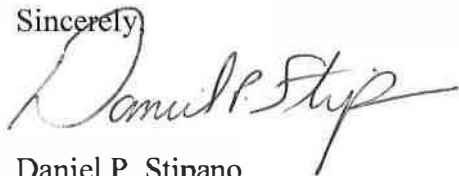
04 U.S. Dist. LEXIS 10057, (S.D.N.Y. June 3, 2004).

Additionally, we will continue to redact employee data consisting of: 2. Social Security Number; 3. Date of Birth; 23. Veterans Preference; 26. Veterans Preference for RIF; 27. FEGLI; 28. Annuitant Indicator; 30. Retirement Plan; 31. Service Comp. Date; and 37. Bargaining Unit Status. These items are being withheld to protect the personal details regarding an employee which would not serve to shed light on agency functions.²

During our review, we discovered that some employees had their salary computed incorrectly at the beginning of 2011. Although this error was corrected, the SF 50s previously provided to you reflected the incorrect salary amount. As such, I am providing you the corrected SF 50 for 21 employees. Three other employees also had personnel actions effective shortly before your FOIA request that resulted in a salary change. These updated SF 50s are provided to you. And finally, three employees, Mr. Glenn Atkins, Mr. James Reid, and Mr. Daniel Staehle, should have been included in the original response, but were not. Their SF 50s are also enclosed.

This response constitutes final agency action on your request and appeal. You may seek judicial review of this action in the district court of the United States in the district in which you reside, the district in which your principal place of business is maintained, the district in which you believe withheld records may be situated, or in the District of Columbia. See 5 U.S.C. § 552(a)(4)(B).

Sincerely,



Daniel P. Stipano
Deputy Chief Counsel

Enclosures

² Barvick v. Cisneros, 941 F. Supp. 1015 (D. Kan. 1996).