



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20005

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

June 15, 2012

Lisette Garcia, J.D.  
Senior Investigator  
Judicial Watch  
425 Third Street, SW  
Suite 800  
Washington, DC 20024

Dear Ms. Garcia:

This is in response to your May 16, 2012 letter, in which you sought to appeal the Treasury Inspector General for Tax Administration's (TIGTA) May 14, 2012 response to your Freedom of Information Act (FOIA) request dated April 16, 2012.

Your FOIA request sought the following records for the time frame between August 1, 2010 and the present:

- All Standard Forms 50 (SF-50s) for Anthony Yemoh Smith;
- All Reports of Investigation (TIGTA Forms OI 2028) for Anthony Yemoh Smith;
- All Standard Forms 50 (SF-50s) and Reports of investigation (TIGTA Forms OI 2028) for any other employee deemed to have falsified a travel voucher.

By letter dated May 14, 2012, TIGTA's Disclosure Branch responded to your FOIA request by: (1) indicating there were no TIGTA records responsive to your request for SF-50s for Anthony Yemoh Smith; (2) neither admitting nor denying the existence of any TIGTA Reports of Investigation (ROIs) pertaining to Anthony Yemoh Smith, and (3) indicating that fifteen (15) TIGTA ROIs were found that contained allegations pertaining to falsified travel vouchers by other employees. The 15 TIGTA ROIs consisted of a total of one thousand seven hundred and twenty (1720) pages, including four (4) pages of SF-50s. The Disclosure Branch withheld all 1720 pages in full, asserting FOIA subsections (b)(3), in conjunction with I.R.C. § 6103, (b)(6), (b)(7)(C), and (b)(7)(D) as justification.

After a careful review of your request and the documents at issue, we uphold the prior response by the Disclosure Branch at the request level which indicated that TIGTA maintains no records responsive to your request for SF-50s for Anthony Yemoh Smith.<sup>1</sup>

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<sup>1</sup> From the statements made on your letter of appeal, it appears that you may believe that TIGTA falls within the organizational structure of the Internal Revenue Service (IRS). TIGTA was created as an

We are modifying our previous statement neither admitting nor denying the existence of any TIGTA Reports of Investigation (ROI) pertaining to Anthony Yemoh Smith. The existence of a TIGTA ROI pertaining to Anthony Yemoh Smith has been acknowledged by the agency in court and is referenced in reported opinions in Smith v. TIGTA, 2011 U.S. Dist. LEXIS 138546 (D. Md. December 1, 2011) and 2012 U.S. Dist. LEXIS 365 (D. Md. January 4, 2012, revised January 5, 2012). This report consists of ninety five (95) pages. TIGTA is continuing to withhold all 95 pages in full, and asserts FOIA exemptions (b)(6) and (b)(7)(C) as justification for the withholding.

Finally, we are also upholding the Disclosure Branch's determination to withhold the 1720 pages in full from the 15 TIGTA ROIs involving allegations of falsified travel vouchers by other employees.<sup>2</sup> We assert FOIA exemptions (b)(3), in conjunction with I.R.C. § 6103(a), (b)(6), (b)(7)(C), and (b)(7)(D).

FOIA exemption (b)(3) protects from disclosure information whose disclosure is specifically precluded by another statute. I.R.C. § 6103(a) prohibits the disclosure of confidential tax information (e.g., a taxpayer's identity) absent a specific exception to the general rule of confidentiality. These records contain return information, as that term is defined in I.R.C. § 6103, of persons other than you. The information pertaining to these persons was collected by the Secretary of the Treasury with respect to their liability under the Internal Revenue Code, and therefore, is exempt from disclosure to you.

FOIA exemption (b)(6) protects from disclosure information about individuals contained in "personnel and medical files and similar files" when the disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). The withheld information consists of identifying information of an individual or individuals other than you, contained in government records on an individual or individuals other than you. To the extent that the withheld information might shed light on the Agency's performance of its official functions, releasing the withheld information would result in a clearly unwarranted invasion of privacy of the individual(s) whose

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independent Office of Inspector General within the Department of the Treasury by the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98), Pub. L. No. 105-206 (Jul. 22, 1998). Section 1103 of RRA 98 transferred the duties and responsibilities of the former IRS Office of the Chief Inspector (IRS Inspections) to TIGTA and authorized TIGTA to exercise the duties and responsibilities of an Inspector General for the Department of the Treasury insofar as they relate to the IRS. If you are seeking personnel records, such as SF-50s, of current or former IRS employees, the IRS, as the employing agency, not TIGTA, is the agency which might have such files.

<sup>2</sup> The appeal asks that TIGTA limit the FOIA request to reports "deemed by the agency" to have falsified a travel voucher. TIGTA does not maintain the records by the adjudicative determination of the employing agency, the IRS. Accordingly, we searched our records and retrieved all ROIs involving allegations of falsified travel vouchers.

name(s) and personal information have been withheld. The third party privacy interests outweigh any public interest in having this information released. TIGTA has determined that to reveal whether or not TIGTA investigated a specific individual and any information concerning the nature or results of any such investigation would, under the circumstances here, constitute an unwarranted invasion of that individual's personal privacy. Therefore, this information is exempt from release in response to your request.

FOIA exemption (b)(7)(C) protects from disclosure "information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(7)(C). The withheld information consists of identifying information about an individual or individuals other than you. Releasing the withheld information would result in an invasion into the personal privacy of the individual(s) whose name(s) and/or personal information have been withheld. The information was compiled for law enforcement purposes, see, e.g., Jefferson v. DOJ, 284 F.3d 172, 178 (D.C. Cir. 2002) ("Exemption 7(C) 'covers investigatory files related to enforcement of all kinds of laws.'"), and, to the extent that the information might shed light into the Agency's performance of its official functions, the privacy interests of the third party or parties outweigh any public interest in having the information released. TIGTA has determined that to reveal whether or not TIGTA investigated a specific individual and any information concerning the nature or results of any such investigation would, under the circumstances here, constitute an unwarranted invasion of that third party's personal privacy. Therefore, this information is exempt from release in response to your request.

FOIA exemption (b)(7)(D) protects from disclosure "information compiled for law enforcement purposes [which] could reasonably be expected to disclose the identity of a confidential source . . . and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation . . . information furnished by a confidential source." 5 U.S.C. § 552(b)(7)(D). The withheld information was compiled for law enforcement purposes and consists of identifying information of a confidential source or sources, information that would tend to reveal the identity of a confidential source or sources, and information furnished by such confidential source or sources under an express or implied promise of confidentiality. Therefore, this information is exempt from release in response to your request.

Finally, we have determined that the non-exempt information in the documents at issue is not reasonably segregable from the exempt information as they are inextricably intertwined in these ROIs. Redaction of the exempt information would not be adequate to safeguard the privacy interests asserted above.

This letter constitutes the final decision of TIGTA with respect to your FOIA appeal. If you believe that this decision is in error, you may challenge it by filing a complaint in the

United States District Court for the district in which you reside, or have your principal place of business, or in which the agency records are located, or in the District of Columbia.

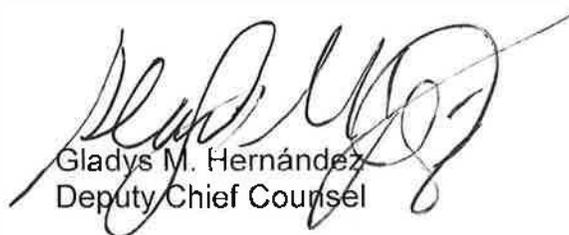
In addition, as part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. 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

E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 301-837-1996  
Facsimile: 301-837-0348  
Toll-free: 1-877-684-6448

If you have any questions concerning this matter, you may contact Brady J. Kiehm at (202) 622-4068.

Sincerely,



Gladys M. Hernández  
Deputy Chief Counsel

cc: Disclosure Branch