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To: Kester, Tonykester@aging.sc.gov
Rivers, Deniseriversd@aging.sc.gov
CC: Jackson, Caldwell (ACL/OA)Caldwell.Jackson@acl.hhs.gov
Date: 4/27/2015 6:21:49 PM
Subject: Freedom of Information Act Request from the Administration for Community Living
Attachments: 11157418-SC.pdf
PAL Request Form2.pdf

Dear Mr. Kester and Ms. Rivers:

The Administration for Community Living (ACL) has received a request for information seeking disclosure of certain materials provided to ACL by your organization. The request is currently being reviewed for disclosure by this office pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. § 552). The purpose of this letter is to provide you with an opportunity to participate in our decision-making process, and copies of the request and the responsive materials (USC's application) are attached to this letter.

Under the FOIA, following an information request, agencies must disclose responsive materials unless an exemption to the Act calls for the records (or a reasonably segregable portion thereof) to be withheld. When responsive materials may contain commercial or financial information, we consider whether some or all of such information might be withheld under FOIA Exemption 4 (5 U.S.C. § 552(b)(4)). This exemption permits a Federal agency to withhold information that is in the nature of "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." If it is determined that all, or some portion of, the responsive materials qualify for withholding under the exemption, we will withhold this information. We will, however, disclose all information to which the exemption and other exemptions does not apply.

This communication will give you an opportunity to participate in our review process by identifying information within the enclosures that you believe should be withheld under FOIA Exemption 4. This invitation is extended in compliance with Executive Order No. 12600. I also recommend that you review the Department of Health and Human Services (HHS) FOIA regulations at <http://www.hhs.gov/foia/45cfr5.html>, particularly those relevant to Exemption 4. If you believe that any information in the enclosed records should be withheld under Exemption 4, you should advise us to that effect pursuant to the following guidelines:

1. Identify potential Exemption 4 information clearly and specifically. You may do so by returning to us relevant pages from these records, highlighting any information you want us to withhold. Alternatively, you may describe specific portions of text, referencing page number(s), line(s), or any other indicator that might be useful to precisely cite particular text.
2. Furnish written comments, along with any other pertinent information you may wish to offer, that is sufficient to demonstrate that: (a) the designated text contains confidential commercial information (i.e. information protected by 5 U.S.C. § 552(b)(4)), and (b) disclosure of such information would cause your organization substantial competitive harm.
3. In expressing your position regarding any particular information you want us to withhold under Exemption 4, it is important to state the specific, reasonably foreseeable, and substantial competitive harm that would be likely to result from the release of such information. Generalized conclusions of competitive harm are not a sufficient basis for us to invoke the exemption (and thereby protect your interests).
4. It is also important that you identify only that information for which you can demonstrate that disclosure would result in substantial competitive injury. Broad designations (of an entire document, chapter, page, or section) are not useful to assist our analysis because, by law, we must disclose any reasonably segregable portion of a record that contains non-exempt information. Therefore, you should tailor your recommendations accordingly.

5. Your reply must be received in this office within **five (5) working days (by your close of business on May 4, 2015)** from the receipt of this correspondence. The time constraints set forth in the FOIA require Federal agencies to promptly respond to requests. Please send any comments you wish to make directly to caldwell.jackson@acl.hhs.gov.

Although we will reach an independent disclosure decision regarding these materials, your comments will ensure that your position is considered during the office's deliberative process. If you fail to notify us of your views on this matter within the time limit indicated above, we may be compelled to analyze the materials without your input. Therefore, your prompt attention to this matter is warranted.

Questions concerning this matter may be directed to Caldwell Jackson at 202-357-3580.

Thank you for your assistance with this matter.

Richard Nicholls
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U.S. Department of Health and Human Services
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