

November 6, 1998

Michael J. Gaffney, Esq.

Gaffney & Schember, P.C.

1666 Connecticut Avenue, NW

Suite 225

Washington, D.C. 20009

Re: FOIA appeal, your letter dated October 9, 1998

Dear Mr. Gaffney:

On August 27, 1998, you filed a request under the Freedom of Information Act (FOIA) for documents set forth in eight categories. The requested documents concern the NCUA Disabled Veterans Affirmative Action Program. Dianne Salva, NCUA's FOIA Officer, responded to your request on September 11, 1998. Enclosed with the response were documents responsive to categories 1 - 3 of your request. Ms. Salva informed you that she located no documents responsive to categories 4 - 8 of your request.

In your appeal, you ask us to clarify whether Ms. Salva's search for documents included all of NCUA's offices or just the Office of General Counsel. Generally, all documents concerning NCUA's affirmative action program would be maintained by the division of Equal Opportunity Programs within the Office of the Executive Director. Your request was directed to and the responsive documents were obtained from the division of Equal Opportunity Programs. We have now determined that there may also be some documents responsive to category 7 of your request maintained by NCUA's Office of Human Resources. Ms. Salva will be contacting you with regard to that aspect of your request. It will be treated as an original request rather than part of this appeal. Other than the possibility of documents responsive to category 7 of your request, we do not believe there are any other responsive documents within any office of the NCUA.

Federal agencies are under a duty to conduct a reasonable search for records when a FOIA request is received.

Patterson v. Internal Revenue Service, 56 F.3d 832, 841 (7th Cir. 1995). The question is not whether any documents responsive to the request might exist, but rather whether the search for any responsive documents was adequate. Steinberg v. United States Department of Justice, 23 F.3d 458 (D.C. Cir. 1994) quoting from Weisberg v. United States Department of Justice, 745 F.2d 1476 (D.C. Cir. 1984). We believe an adequate search for documents has been made.

Pursuant to 5 U.S.C. 552(a)(4)(B), you may seek judicial review of this determination by filing suit against the NCUA. Such a suit may be filed in the United States District Court in the district where the requester resides, where the requester's principal place of business is located, or in the District of Columbia.

Sincerely,

Robert M. Fenner

General Counsel

GC/HMU:bhs

SSIC 3212

98-1020

cc: Dianne Salva