

October 18, 2010

Mr. Russell Carollo  
(b)(6)

Re: FOIA Appeal 2010 – APP - 0013

Dear Mr. Carollo:

This responds to your letter of September 21, 2010, by which you have appealed the sufficiency of the agency's response to your request, submitted by letter of July 10, 2010, for agency records under the Freedom of Information Act (FOIA). As more fully discussed below, your appeal is denied in part and granted in part.

In your request, you sought copies of agency records related to specific travel vouchers that you identified on an attached exhibit. Your request excluded copies of computer records that had already been provided to you, but specifically requested copies of receipts, such as hotel and taxi receipts, meal receipts and airline tickets, associated with the identified travel. In response, by letter of September 10, 2010, Staff Attorney Linda Dent provided you with copies of 87 pages of agency records, with partial redactions of information she deemed to be exempt from disclosure based on applicable exemptions in the FOIA.

In your appeal, you have complained that the records produced were merely "generic forms, screen shots from a database." In fact, however, the records produced to you were copies of the actual travel vouchers (with applicable redactions) you identified, as the same are housed within the agency's electronic records. The agency uses a system for reimbursing employee travel that entails, first, the completion of an electronic travel voucher by the employee. This voucher is submitted electronically to the employee's supervisor, who reviews it and forwards it electronically to our Office of the Chief Financial Officer. The voucher is automatically uploaded into the agency's computerized recordkeeping and accounting system, in which the record is stored and from which reimbursement is provided to the employee.

Your September 21 letter does not assert a specific challenge to the applicability of the identified exemptions or the resulting redactions from the records we produced. Rather, we interpret your letter to be objecting to the fact that copies of receipts associated with the travel vouchers were not provided. That issue is discussed more fully below. For the record, however, you should

Mr. Russell Carollo

October 18, 2010

Page 2

note that I have reviewed and I concur with the determination made by Ms. Dent with respect to the applicability of exemptions (b)(2), (b)(6), and (b)(8) to specific aspects of the relevant records, as noted directly on the released documents themselves. As Ms. Dent correctly noted, exemption (b)(2) supports the withholding of information related solely to an agency's internal practices if disclosure would be harmful to the security or efficiency of an agency's systems or operations. 5 U.S.C. §552(b)(2). Exemption (b)(6) authorizes the withholding of information that, if disclosed, would constitute an unwarranted invasion of personal privacy. 5 U.S.C. §552(b)(6). Exemption (b)(8) supports the withholding of information that is contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency (such as the NCUA) that is responsible for the regulation or supervision of financial institutions. 5 U.S.C. §552(b)(8). I conclude that each of these exemptions was properly invoked in connection with the redactions made on the records that were produced to you.

With respect to the issue of receipts, you should note the following. In accordance with agency travel policy, an individual traveler should retain receipts where appropriate<sup>1</sup> to support his or her claim for reimbursement. Because the travel voucher is submitted in electronic format, however, the receipts do not accompany the voucher and are not, except as discussed below concerning vouchers selected for audit, kept by the agency in any format. Therefore, they do not become an agency record, within the meaning of FOIA. *See, e.g., Kissinger v. Reporters Committee for Freedom of the Press*, 445 U.S. 136, 150, 63 L. Ed. 2d 267, 100 S. Ct. 960 (1980), in which the Supreme Court concluded that the State Department had no obligation under FOIA to produce records (in that case, notes of telephone conversations) which were not in the possession or control of the agency. Accordingly, except as discussed below, the receipts are not subject to disclosure.

The only exception to the foregoing concerns vouchers that the agency has selected for audit. In the event of an audit, the traveler is directed to produce receipts and other records that support the expenses for which reimbursement is sought. The agency makes photocopies of the receipts and retains them, in a separate file. With respect to the vouchers you identified in your initial request, seventeen were selected for audit. We will review the materials contained in those files and will produce copies of the receipts to you, subject to redactions in the records as appropriate in accordance with applicable FOIA exemptions. You should also note that, in accordance with agency recordkeeping policy, seven of these files have already been transferred to an archive maintained by the National Archives and Records Administration (NARA). We will request a return of those files and will forward copies of the relevant documents contained therein as soon as we receive them and complete our review of them.

Finally, you should also note that the NCUA does not, as a matter of policy, accept payment or reimbursement from third parties in connection with official travel by its employees. Accordingly, with respect to the documents you have identified, there are no records pertaining to "non-federal source travel."

---

<sup>1</sup> Travelers seeking reimbursement for meals on the basis of established per diem allowances are not required to retain receipts.

Mr. Russell Carollo

October 18, 2010

Page 3

This letter represents the final agency determination with respect to your appeal. You are entitled to file an action in federal court challenging our determination. Such a suit may be filed in the United States District Court where you reside, where your principal place of business is located, the District of Columbia, or where the documents are located (the Eastern District of Virginia).

Sincerely,

Robert M. Fenner  
General Counsel

OGC/RPK:bhs  
10-FOI-00130