



United States Department of State

Washington, D.C. 20520

Case No. F-2012-21885

Mr. Matt Schroeder
Director, Arms Sales Monitoring Project
Federation of American Scientists
1725 DeSales St, NW, #600
Washington, DC 20036

Dear Mr. Schroeder:

I refer to your request dated May 31, 2011 to the Department of Defense for the release of certain material under the Freedom of Information Act (Title 5 USC Section 552). The Department of Defense has reviewed the four relevant documents retrieved in response to your request, and has asked us to conduct our own review with respect to Department of State equities and thereafter to respond directly to you.

Taking also into account the recommendations received from the Department of Defense, we have determined that these four documents may be released with excisions. All released material is enclosed.

An enclosure explains Freedom of Information Act exemptions and other grounds for withholding material. Where we have made excisions, the applicable exemptions are marked on each document. All non-exempt material that is reasonably segregable from the exempt material has been released.

All of the excisions in these documents were made by the Department of State. You have the right to appeal our determinations within 60 days. A copy of the appeals procedures is enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheryl L. Walter". The signature is fluid and cursive, with a large initial "S" and "W".

Sheryl L. Walter, Director
Office of Information Programs and Services

Enclosures:
As stated.



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Sheryl L. Walter, Director
Office of Information Programs and Services

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The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Withholding specifically authorized under an Executive Order in the interest of national defense or foreign policy, and properly classified. E.O. 12958, as amended, includes the following classification categories:
 - 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Information on weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
 - ARMEX Arms Export Control Act, 22 USC 2778(e)
 - CIA Central Intelligence Agency Act of 1949, 50 USC 403(g)
 - EXPORT Export Administration Act of 1979, 50 App. USC 2411(c)(1)
 - FSA Foreign Service Act of 1980, 22 USC 4003 & 4004
 - INA Immigration and Nationality Act, 8 USC 1202(f)
 - IRAN Iran Claims Settlement Act, Sec 505, 50 USC 1701, note
- (b)(4) Privileged/confidential trade secrets, commercial or financial information from a person
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Information that would constitute a clearly unwarranted invasion of personal privacy
- (b)(7) Information compiled for law enforcement purposes that would:
 - (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request, excised with the agreement of the requester

Rules and Regulations

Subpart F – Appeal Procedures

§171.52 Appeal of denial of access to, declassification of, amendment of, accounting of disclosures of, or challenge to classification of records.

- (a) *Right of administrative appeal.* Except for records that have been reviewed and withheld within the past two years or are the subject of litigation, any requester whose request for access to records, declassification of records, amendment of records, accounting of disclosure of records, or any authorized holder of classified information whose classification challenge has been denied, has a right to appeal the denial to the Department's Appeals Review Panel. This appeal right includes the right to appeal the determination by the Department that no records responsive to an access request exist in Department files. Privacy Act appeals may be made only by the individual to whom the records pertain.
- (b) *Form of appeal.* There is no required form for an appeal. However, it is essential that the appeal contain a clear statement of the decision or determination by the Department being appealed. When possible, the appeal should include argumentation and documentation to support the appeal and to contest the bases for denial cited by the Department. The appeal should be sent to: Chairman, Appeals Review Panel, c/o Appeals Officer, A/GIS/IPS/PP/LC, U.S. Department of State, SA-2, Room 8100, Washington, DC 20522-8100.
- (c) *Time limits.* The appeal should be received within 60 days of the date of receipt by the requester of the Department's denial. The time limit for response to an appeal begins to run on the day that the appeal is received. The time limit (excluding Saturdays, Sundays, and legal public holidays) for agency decision on an administrative appeal is 20 days under the FOIA (which may be extended for up to an additional 10 days in unusual circumstances) and 30 days under the Privacy Act (which the Panel may extend an additional 30 days for good cause shown). The Panel shall decide mandatory declassification review appeals as promptly as possible.
- (d) *Notification to appellant.* The Chairman of the Appeals Review Panel shall notify the appellant in writing of the Panel's decision on the appeal. When the decision is to uphold the denial, the Chairman shall include in his notification the reasons therefore. The appellant shall be advised that the decision of the Panel represents the final decision of the Department and of the right to seek judicial review of the Panel's decision, when applicable. In mandatory declassification review appeals, the Panel shall advise the requester of the right to appeal the decision to the Interagency Security Classification Appeals Panel under §3.5(d) of E.O. 12958.