



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

OCT 31 2014

Mr. Daniel DeFraia
Journalist, Boston University
1010 Cambridge Street, Apt. #3
Cambridge, MA 02141

Subject: Freedom of Information Act (FOIA) Request Ref: BIS 15-010

Dear Mr. DeFraia:

This is in response to your October 22, 2014, FOIA request to the Department of Commerce's Bureau of Industry and Security (BIS) for "copies of all denied export license applications from years FY2000, FY2001, FY2002, FY2003, FY2004, FY2005, FY2006, FY2007, FY2008, FY2009, FY2010, FY2011, FY2012, FY2013 and FY2014." The request should "include all BIS-748-P forms and application attachments, including letters of explanation, technology control plan, resume, and other supporting documentation submitted by the party applying for an export license... [and] documentation regarding BIS' reason for license denial."

The requested information is withheld in full under FOIA exemptions (b)(3), specifically Section 12(c) of the Export Administration Act.

Exemption (b)(3) protects information "specifically exempted from disclosure by statute." The statutory provision that specifically exempts this information from disclosure by establishing particular criteria for withholding is Section 12(c) of the Export Administration Act of 1979, as amended (the "Act").¹ Section 12(c)(1) states, in pertinent part, that "information obtained for the purpose of, consideration of, or concerning, license applications under this Act shall be withheld from public disclosure unless the release of such information is determined by the Secretary to be in the national interest." This Section does not merely authorize maintaining the confidentiality of information obtained under the Act, but requires such information not be disclosed unless its release is determined to be in the national interest. In the absence of a national interest determination authorizing release of information responsive to your request and consistent with the criteria of Section 12(c), any such information cannot be released.

You have the right to appeal this denial of the FOIA request. An appeal must be received within 30 calendar days of the date of this response letter by the Assistant General Counsel for Administration (Office), Room 5898-C, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Your appeal may also be sent by e-mail to

¹ Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 C.F.R. 2001 Comp. p. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46959 (Aug. 11, 2014)), continues the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §1701 et seq. (2000)).



FOIAAppeals@doc.gov, by facsimile (fax) to 202-482-2552, or by FOIAonline, if you have an account in FOIAonline, at <https://foiaonline.regulations.gov/foia/action/public/home#>.

The appeal must include the following:

- A copy of the original FOIA request
- A copy of the agency response to the FOIA request
- A statement of the reason why the withheld records should be made available and why denial of the records was in error

The submission (including e-mail, fax, and FOIAonline submissions) is not complete without the required attachments.

The appeal letter, the envelope, the e-mail subject line, and the fax cover sheet should be clearly marked "Freedom of Information Act Appeal." The e-mail, fax machine, FOIAonline, and Office are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box, fax machine, FOIAonline, or Office after normal business hours will be deemed received on the next normal business day.

If you have questions regarding this request, please contact Jennifer Kuo at (202) 482-0953 or via e-mail at jennifer.kuo@bis.doc.gov.

Sincerely,



Kathryn H. Chantry
Chief Financial Officer and
Director of Administration