



Homeland Security

November 24, 2014

Joshua Daniels
Policy Analyst
Libertas Institute

Sent via email: jdaniels@libertasutah.gov

Re: **2014-HQFO-00284**

Dear Mr. Daniels:

This is the electronic final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated January 21, 2014, and received by this office on January 22, 2014. You are seeking copies of DHS records pertaining to the implementation of and compliance with federal REAL ID standards for the State of Utah. Specifically, you seek copies of any of the following documents: 1) Applications, statements, forms, audits, or other communications or documents from the State of Utah to the DHS concerning Utah's status of compliance, or efforts to comply, or activities to implement the provisions and standards of REAL ID during the years January 2009 through December 2013; 2) Communications from the DHS to the State of Utah concerning Utah's compliance with or implementation of the provisions and standards of REAL ID. This may include audits, reviews, or statements concerning Utah's Driver License Division and process. This may also include statements, memos, notices, declarations, requests, or other documents from DHS to the State of Utah; and 3) Internal documents of, or documents exclusive to the DHS that contain final decisions, determinations, statements, statuses, or descriptions of Utah's implementation or compliance with the standards and provisions of REAL ID.

A search of the Office of Policy for documents responsive to your request produced a total of 41 pages. Of those pages, I have determined that 12 pages of the records are releasable in their entirety, 12 pages are partially releasable, and 17 pages are withheld in their entirety pursuant to Title 5 U.S.C. § 552: (b)(5), (b)(6), and (b)(7)(E), FOIA Exemptions 5, 6, b7(E).

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the Deliberative Process Privilege.

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The

release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I determined that disclosure of Utah's Security Plan could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), Mailstop 0655, U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of FOIA allow DHS to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge. 6 CFR § 5.11(d)(4).

If you need to contact our office again about this matter, please refer to **2014-HQFO-00284**. This office can be reached at 1-866-431-0486 or 202-343-1743.

Sincerely,

/s/

Maura Busch
Government Information Specialist

Enclosure(s): Responsive Documents, 41 pages

