



FEMA

December 10, 2018

SENT VIA E-MAIL TO: ANDREW.JANCA@OUTLOOK.COM

Andrew Janca, Ph.D.
PO Box 76303
Washington, DC 20013

Re: FEMA FOIA Appeal Number 2018-FEAP-00031
Re: FEMA FOIA Request Number 2017-FEFO-00165 & FEMA FOIA
Appeal Number 2018-FEAP-00004

Dear Dr. Janca:

The U.S. Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) Information Management Division has completed its review of your appeal of the supplemental response by FEMA's Disclosure Branch to your Freedom of Information Act (FOIA) request, **FEMA 2017-FEFO-00165**, issued in the wake of my May 25, 2018 remand of your request for additional processing, in response to appeal **FEMA 2018-FEAP-00004**.

In your original FOIA request, received by this office on October 21, 2016, you sought a copy of the following Strategic National Risk Assessment (SNRA) records:

1. SNRA 2015 Findings [Report], May 2015;
2. SNRA 2015 Technical Appendix, May 2015;
3. SNRA 2015 Working Papers, May 2015;
4. PPD-8 Implementation Plan, May 2011;
5. SNRA Terms of Reference, June 2011;
6. SNRA 2015 Update Background and General Guidance, February 2015;
7. SNRA 2015 Qualitative Data Instructions, February 2015, and;
8. SNRA 2015 Risk Summary Sheet Instructions & Template, February 2015.

By letter dated August 3, 2017, FEMA's Disclosure Branch provided you with its first interim response, which stated FEMA searched its National Preparedness Directorate, resulting in 703 total pages. Of those pages, items 6-8 were produced in full to you, while the remaining items were withheld in their entirety pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5), or were pages belonging to DHS.

On November 1, 2017, you appealed the Exemption 5 withholdings. With respect to the application of Exemption 5, after reviewing the administrative record for the processing of this case, I determined, as outlined in my May 25, 2018 letter to you, the responsive records did, in

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fact, constitute, “interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency,” and that due to their predecisional nature, the deliberative process privilege would technically apply.

Additionally, on May 25, 2018, as it related to the application of Exemption 5, I granted your appeal and remanded the aforementioned records to the Disclosure Branch for a foreseeable harm analysis to be conducted.

On June 26, 2018, the Disclosure Branch determined that 33 pages were releasable in their entirety, and 614 pages are partially releasable pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5). An additional 26 pages of documents were also provided to you in their entirety that had been in consultation with another agency when the August 3, 2017 response was issued; no deletions or exemptions claimed.

On September 24, 2018, you appealed the Exemption 5 withholdings on items listed above (1-4). With respect to the application of Exemption 5, I am upholding the June 26, 2018 Disclosure Branch determination and denying your appeal.

The Exemption 5 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.

Here, the deliberative process privilege is used to withhold source information, technical data, threats, hazards, analyses, interpretations, conclusions, and information on previously-released threats and hazards that have been updated in the 2015 SNRA. These documents are draft and the review process was not finalized. The withheld information contains factual information that is so entangled with the analyses and conclusions that release would reveal specific threats and hazards which are pre-decisional and part of the deliberative process, and may not reflect FEMA's current position regarding risks. Disclosure of this deliberative and pre-decisional information would likely discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue 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. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
(OGIS) 8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov

Web: <https://ogis.archives.gov>

Telephone: 202-741-5770/Facsimile: 202-741-5769/Toll-free: 1-877-684-6448

Judicial review of my final action on your appeal is available to you in the United States District Court for the judicial district in which you reside, or in the District of Columbia.

If you have any questions or would like to discuss this matter, please refer to **FEMA 2018-FEAP-00031**.

You may contact this office at (202) 646-3323 or electronically at FEMA-FOIA@fema.dhs.gov.

Sincerely,

William H. Holzerland
Senior Director for Information Management
Office of the Chief Administrative Officer
Federal Emergency Management Agency
U.S. Department of Homeland Security