

MuckRock News
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Concerns Regarding Inappropriate Handling of FOIA Request and Request For Immediate Remediation and Subsequent Release of Documents Pursuant to FOIA / PA Laws

IRS HQ FOIA - Stop 211
PO Box 621506
Atlanta, GA 30362

ATTN: Michael C. Young
Tax Law Specialist
ID #: 1000436696

ATTN: David Nimmo
Disclosure Manager
Disclosure Office 13

RE: F18113-0041

To whom this may concern,

I am writing today in hopes to resolve a very concerning problem with a FOIA request that was submitted to the IRS on April 21, 2018¹.

By way of background, the request was for email records sent to, from, or copied to milagros.reyes@ci.irs.gov, from January 1, 2016 to Present Day, containing at least one of the following the non-case-sensitive key-strings: "EB-5", "USCIS", or "Trump".

Unfortunately, although the request was submitted on April 21, 2018, I did not receive a response until May 30, 2018. On May 30, 2018 I received a letter from the IRS which, among other things, unilaterally closed my FOIA request in violation of FOIA regulations and made some very concerning claims that the IRS did not know where its own email records were held. I wish to address these concerns as enumerated below:

1. The IRS claims that my request is too "broad". However, this is an incorrect assertion and not valid grounds to close the request. FOIA law allows requests that are not reasonably described to be modified. However, given the text based search nature of my request, the records I am seeking are precisely described and conducting a text based search is not unduly burdensome. Indeed, the IRS was more than willing to search email records in FOIA request F18036-0016. F18036-0016 is mechanically equivalent to F18113-0041 so there is no reason why F18113-0041 should be denied and given different treatment than the previous request.
2. Similarly, the IRS incorrectly presumes that all information from "third parties" would be "confidential". This blanket statement and line of argument used to close the FOIA request is in violation of both the letter and spirit of FOIA law. FOIA law does not provide any special carve out for records that an agency have obtained from a third party. In fact, as you can see from the released documents in F18113-0041, there were numerous

¹<https://www.muckrock.com/foi/united-states-of-america-10/milagrosreyesciirsgov-eb-5-emails-52673/#comments>

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emails from third parties that were released in full or released with partial redaction. I recognize that there may be redactions for confidential information but FOIA law requires agencies to redact information in a piece by piece manner rather than aggressively withholding all of the documents based on the unproven assumption that all third party documents would be confidential. I'm not asking to obtain other people's tax records, I simply want all non-exempt email records matching the mentioned search terms released so the public can understand more about the IRS. Given the position of milagros.reyes@ci.irs.gov, the intra-agency, and inter-agency communications necessary to coordinate IRS operations, it is certain that there will be emails and records discussing topics such as "EB-5". These emails may not have any personally identifiable information, such as an internal emails amounts IRS officials discussing the EB-5 industry as a whole. In personally identifiable information does exist, this information must be redacted in part so portions of the documents may be released.

3. Additionally, although the request description specifically identified emails as the records being requested, the IRS contents that it "cannot determine, from the description given, the specific agency system(s) of records and/or recordkeeping file(s) to be searched". This line of reasoning would imply that the IRS does not know where it's emails are stored, something that is beyond belief. Regardless, the IRS has shown via previous FOIA requests, such as F18036-0016 that it is capable of searching email records without problems. Pursuant to the FOIA statute and case law, the description given meets the standard by providing a reasonable description to allow an IRS FOIA officer to determine the location of the records without undue burden. A reasonable IRS FOIA officer may contact the IRS's IT office or even send an email to milagros.reyes@ci.irs.gov. Given the simplicity of the request and the fact that the IRS has completed numerous similar requests, it is unreasonable for the IRS to claim that it doesn't know where the records are and use that as justification of closing the request.
4. Finally, the response letter given by the IRS failed to mention the rights of a requestor to appeal the determination and or contact NARA for additional assistance. This is unambiguously a violation of FOIA law and goes contrary to the public interest.

In light of the above, I ask that you immediately re-open my request, conduct the necessary searches, and release the documents (with necessary and justifiable redactions) as the IRS has done in previous FOIA requests such as F18036-0016.

Sincerely Yours,

Taylor Scott Amarel