

U.S. Department of
Homeland Security

United States
Coast Guard



Office of the Chief Administrative Law Judge
United States Coast Guard

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5720
2 Sep 2025

Lucas Douglas
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RE: DHS FOIA APPEAL NUMBER 2024-HQAP-00428; FOIA Request Number 2023-NPFO-00156

Dear Lucas Douglas:

This letter concerns your appeal of the Department of Homeland Security's (DHS) Cybersecurity and Infrastructure Security Agency (CISA) response to your FOIA request 2023-NPFO-00156. As set forth below, I am **AFFIRMING** CISA's response.

Pursuant to an interagency agreement, the United States Coast Guard Office of the Chief Administrative Law Judge is reviewing FOIA appeals for the DHS General Counsel's Office. Therefore, the Office of the Chief Administrative Law Judge will be rendering the official appeal decision on behalf of DHS.

In your FOIA request, you reference that on May 16, 2019, the Tallahassee-based elections vendor VR System wrote a 4-page letter to Senator Ron Wyden. In that letter, VR Systems states, "DHS led a proactive 'hunt' at VR Systems. . . ." You request all records referring to this hunt, including but not limited to the actual hunt reports. On December 22, 2023, DHS informed you a search produced a total of 19 pages of responsive records, but DHS determined all 19 pages would be withheld in full pursuant to Title 5 U.S.C. § 552(b)(3), (b)(4), and (b)(7), FOIA Exemptions 3, 4, and 7(e). You appealed, asserting CISA improperly applied each of these exemptions.

Turning first to FOIA Exemption 4, this exemption protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552(b)(4). While the documents at question might be considered trade secrets, I will review them under the second prong of the exemption and determine if they are shown to be "(1) commercial or financial, (2) obtained from a person, and (3) privileged or confidential." *See Pub. Citizen Health Rsch. Grp. v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983).

First, upon reviewing the record, the documents at question in this case relate to the infrastructure of VR Systems, including internal network architecture, logs of activity on their network, and other sensitive business information. Applying the "ordinary

meaning” of commercial, I find the documents have a strong commercial interest for VR Systems. *See Id.* at 1290. Second, the report was created by the government and the government itself is not defined as a “person.” *See Nat. Res. Def. Council, Inc. v. U.S. Dep’t of Interior*, 36 F. Supp. 3d 384, 400-01 (S.D.N.Y. 2014). However, Exemption 4 can still apply if the information for the report came directly from information provided by a person outside the government and not just information generated by the government itself. *Id.* In this case, the report focuses entirely on information collected from VR System’s networks; therefore, I find the information was “obtained from a person.” And finally, I find the information is confidential. The term confidential can be satisfied if two conditions are met, to include showing the information is customarily kept private and an assurance from the government that the information will remain secret. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019). Upon reviewing the record before me, prior to assisting in the production of this report, VR Systems was informed the entirety of the report would remain private and would only be released with permission from VR System. I find responsive documents are confidential.

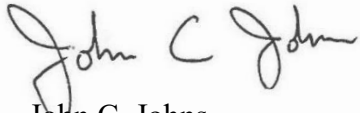
When applying Exemption 4, the government does not have to prove disclosure of the information would result in “substantial harm.” *Id.* at 2363-64. However, information in the record does indicate release of this confidential information would be harmful. In this case, VR Systems requested a risk and vulnerability assessment be conducted of their networks, but with the understanding the information gained from accessing their networks would remain confidential. If such information could be released via FOIA requests, industry would be hesitant to engage in future risk and vulnerability assessments.

Upon a review of the record, I conclude CISA properly withheld the responsive records pursuant to FOIA Exemption 4. As the entirety of the records are withheld pursuant to this exemption, it is unnecessary for me to review the proper use of FOIA Exemptions 3 and 7(e).

Notwithstanding the above decision, 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. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

This decision is the final action of DHS concerning DHS FOIA APPEAL NUMBER 2024-HQAP-00428; FOIA Request Number 2023-NPFO-00156. While a comprehensive review of your appeal was made, you may seek judicial review of this decision pursuant to 5 U.S.C. § 552(a)(4)(B) in United States District Court for either: 1) the district where you reside; 2) the district where the agency records are situated; or 3) the District of Columbia.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Johns". The signature is fluid and cursive, with the first and last names being more prominent than the middle initial.

John C. Johns
Attorney Advisor
United States Coast Guard

Copy: James Holzer, Deputy Chief FOIA Officer

Sent *via* first class mail to the above address