



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 58987B
26 October 2009

Mr. Mark J. Perry
Electronic Privacy Information Center
1718 Connecticut Avenue NW
Suite 200
Washington, DC 20009

Dear Mr. Perry:

This further responds to your Freedom of Information Act (FOIA) request submitted via the Internet on 25 June 2009, which was received by this office on 26 June 2009, for copies of the following records:

1. "The text of the National Security Presidential Directive 54 otherwise referred to as The Homeland Security Presidential Directive 23;
2. The full text, including previously unreported sections, of the Comprehensive National Cybersecurity Initiative, as well as any executing protocols distributed to the agencies in charge of its implementation; and
3. Any privacy policies related to either the Directive, the Initiative, including but not limited to, contracts or other documents describing privacy policies for information shared with private contractors to facilitate the Comprehensive National Cybersecurity Initiative."

As you recall, we provided you with two documents responsive to item 3 of your request on 14 August 2009 (copy enclosed). Your request has been further processed under the provisions of the FOIA. A thorough search of our files was conducted, but no records responsive to item 2 of your request were located. Three documents (26 pages) responsive to items 1 and 3 of your request have been reviewed by this Agency as required by the FOIA.

Two documents responsive to item 3 have been withheld in their entirety. Both documents are exempt from release pursuant to the fifth exemption of the FOIA. This exemption applies to inter-agency or intra-agency memoranda or letters which would not be available by law to a party in litigation with the agency, protecting information that is normally privileged in the civil discovery context, such as information that is part of a predecisional deliberative process.

Some of the information in one of the documents was also found to be currently and properly classified in accordance with Executive Order 12958, as amended. This information meets the criteria for classification as set forth in Subparagraph (c) of Section 1.4 and remains classified SECRET and CONFIDENTIAL

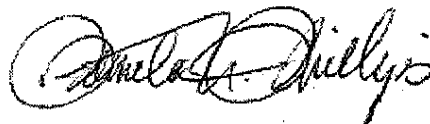
as provided in Section 1.2 of the Executive Order. The information is classified because its disclosure could reasonably be expected to cause serious damage to the national security. Because the information is currently and properly classified, it is exempt from disclosure pursuant to the first exemption of the FOIA (5 U.S.C. Section 552(b)(1)).

In addition, this Agency is authorized by various statutes to protect certain information concerning its activities. We have determined that such information exists in both withheld documents. Accordingly, those portions are exempt from disclosure pursuant to the third exemption of the FOIA which provides for the withholding of information specifically protected from disclosure by statute. The specific statutes applicable in this case are Title 18 U.S. Code 798; Title 50 U.S. Code 403-1(i); and Section 6, Public Law 86-36 (50 U.S. Code 402 note).

The Initial Denial Authority for NSA information is the Deputy Associate Director for Policy and Records, Diane M. Janosek. Because we were unable to locate records responsive to item 2 of your request and because two documents were withheld in their entirety, you may consider this to be a partial denial of your request. You are hereby advised of this Agency's appeal procedures. Any person notified of an adverse determination may file an appeal to the NSA/CSS Freedom of Information Act Appeal Authority. The appeal must be postmarked no later than 60 calendar days after the date of the initial denial. The appeal shall be in writing addressed to the NSA/CSS FOIA Appeal Authority (DJP4), National Security Agency, 9800 Savage Road STE 6248, Fort George G. Meade, MD 20755-6248. The appeal shall reference the initial denial of access and shall contain, in sufficient detail and particularity, the grounds upon which the requester believes release of the information is required. The NSA/CSS FOIA Appeal Authority will endeavor to respond to the appeal within 20 working days after receipt, absent any unusual circumstances.

Please be advised that the record responsive to item 1 of your request did not originate with this Agency. Because we are unable to make determinations as to the releasability of information other than our own, the subject document has been referred to the National Security Council for review and direct response to you.

Sincerely,



PAMELA N. PHILLIPS
Chief
FOIA/PA Office

Encl:
a/s