



August 6, 2001

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Re: Appeal – FOIA Request 2001-36

Dear Mr. Bohren:

This responds to your letter of July 27, 2001, appealing what you deemed to be a denial of your FOIA request of June 27, 2001 (reference number 2001-36). Upon review of the record, I must deny your appeal.

Background

In a letter dated June 27, 2001, you filed with LSC a FOIA request for the following LSC records pertaining to Legal Services of Northern California, Inc. and California Indian Legal Services:

1. Successful grant applications
2. Grant award letters
3. Audits
4. Reports

You limited your request for items falling under the first two categories to the immediate past, current and pending 2002 grant years, and your request for items falling under the last two categories to documents issued within the last five years.

On July 3, 2001, Ms. Lisa Zurmuhlen spoke with you by phone to discuss your request. Specifically, she requested written clarification as to the nature and scope of your request for “reports” in order to be able to respond effectively to your request. In this phone conversation, Ms. Zurmuhlen also explained that when LSC receives a request for documents submitted by third parties to LSC, LSC must engage in a “submitter’s rights inquiry” in which the third party is informed of the request and afforded an opportunity to object to the release if they consider all or part of the records requested withholdable under FOIA.

Following up on the information provided in the telephone conversation in a letter dated July 6, 2001, Ms. Zurmuhlen provided an initial response to your request. This initial response notified you that: 1) documents relating to the ongoing grant competition cycle were going to be withheld; 2) that documents relating to the current and previous grant years and audits were in the process of being collected; and 3) that additional written clarification on the scope of your request for "reports" would be necessary in order for LSC to provide a substantive response to your request.

On July 30, 2001, you filed an appeal letter with LSC.¹ You base your appeal on what you characterize as LSC's "denial" of your request because you did not receive "a full and complete response" within twenty working days of your initial request.

On July 31, 2001, Ms. Zurmuhlen sent you a letter further responding to your request. This letter included 14 documents responsive to your request. The letter also noted that additional information may be forthcoming, pending the completion of the "submitter's rights" process previously explained to you over the phone. Ms. Zurmuhlen also reiterated her request for written clarification of your request for "reports" in order for LSC to finish processing your request. Finally, Ms. Zurmuhlen's July 31 letter noted again that your request for documents relating to the pending competition cycle had been denied.

Analysis

Under LSC's FOIA regulations, LSC is required to "make an initial determination of whether to comply with or deny" a FOIA request and to "dispatch such determination to the requester within 20 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of such request," unless there are extenuating circumstances justifying an extension. 45 CFR §1602.8(i)(1). The regulations further provide that "[a]fter it has been determined that a request will be granted, the Corporation will act with due diligence to providing a substantive response." 45 CFR §1602.8(l).

Ms. Zurmuhlen's letter of July 6 provided the initial response to your request as required by the regulation cited above. This response was dispatched well within the 20 business day time limit provided in the regulations.²

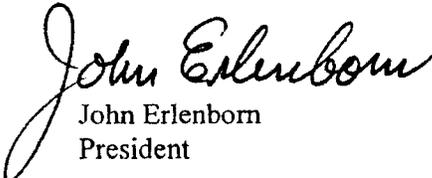
¹ I note that you sent your appeal letter to the Office of Legal Affairs at same fax number to which you directed your initial FOIA request, notwithstanding that you had been advised personally by Ms. Zurmuhlen that that number should not be used for further communications and notwithstanding that LSC's FOIA regulations clearly state that FOIA Appeals are to be sent to the President of LSC. 45 CFR §1602.12(a). In order to assure prompt attention to your correspondence, we would request that future correspondence be properly addressed and submitted.

² You do not base your appeal on the failure of LSC to provide a substantive response in a reasonably timely fashion, nor do you appeal the denial of documents related to the pending competition cycle on any substantive basis relating to the releasability of the documents. Consequently, this decision does not formally reach such matters. I will note, however, that there is nothing in the record to indicate that Ms. Zurmuhlen's July 31, 2001 release of documents or her actions in processing your request (including her actions relating to the ongoing submitter's rights process and her repeated request for written clarification of a portion your request) reflects anything other than the due diligence required by the regulation.

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In light of the above, I have no basis upon which to determine that you were unlawfully denied any records responsive to your request. If you believe that this determination is in error you may seek judicial review of this decision in the district court of the United States as provided in 5 U.S.C. §552(a)(4).

Sincerely,


John Erlenborn
President