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Mr. William Ferroggiaro
Director, Freedom of Information Project
The National Security Archives
The George Washington University
Gelman Library, Suite 701
2130 H Street, NW
Washington, D.C. 20037

RE: Freedom of Information Act request

Dear Mr. Ferroggiaro:

This letter is in response to your Freedom of Information Act (FOIA) request for:

All records, including but not limited to guidance or directives, memoranda, training materials, or legal analyses, concerning the US Department of Labor's implementation of US Attorney General John Ashcroft's October 12, 2001 memorandum on the US Freedom of Information Act.

As you are aware, the Department of Labor has developed a decentralized system that allows each component to respond to FOIA response through individual disclosure officers. However, in an effort to provide you with a consolidated response I am answering on behalf of all components of the Department of Labor. The exemption that I am asserting, in my letter, is based upon information provide to me by the component asserting the exemption.

A search of the records of the Department of Labor located records which are responsive to your request. These records are enclosed. However, one memorandum that is still in draft and has not been issued by the Office of the Solicitor is being protected pursuant to Exemption 5 of the FOIA.

Exemption 5, has been invoked to protect internal communications to protect the decision-making process of the agency. Exemption 5 permits the government to withhold such information: (1) to encourage open, frank discussions on matters of policy between subordinates and superiors; (2) to protect against premature disclosure of proposed policies before they are finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. Accordingly, we are protecting the two page memorandum pursuant to Exemption 5.

I believe that the Department has been responsive to your request. Should you disagree, you may file an appeal to the Solicitor of Labor within 90 days from the date you received this letter. The appeal must state, in writing, the grounds for the appeal, including any supporting statements or arguments. To facilitate processing, the appeal should include a copy of your initial request and a copy of this letter. The appeal must be addressed to:

Solicitor of Labor
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Both the envelope and the letter of appeal itself must be clearly marked: "Freedom of Information Act Appeal."

Sincerely,



Miriam Miller
Co-Counsel for Administrative Law

Enclosures