



Homeland
Security

JUL - 8 2011

MEMORANDUM FOR: Robert S. Johnson Jr.
Assistant Chief Counsel for Information Law
Transportation Security Administration

FROM: Mary Ellen Callahan
Chief FOIA Officer

Ivan K. Fong
General Counsel

SUBJECT: Reassignment of Pending and Future Office of General Counsel Freedom
of Information Act Appeals to the Office of United States Coast Guard
Administrative Law Judges

Current Department regulations provide that Freedom of Information Act (FOIA) appeals shall be filed with the Office of the General Counsel (OGC) for processing and adjudication. 6 C.F.R. § 5.9. OGC has, in turn, assigned to the Office of the Chief Counsel, Transportation Security Administration (OCC/TSA) the responsibility of processing and adjudicating FOIA appeals.

We have recently announced that certain backlogged FOIA appeals of DHS Components are being reassigned for decision making to the United States Coast Guard Administrative Law Judge program (Coast Guard ALJ program). At the same time, we have also concluded that the most efficient approach for addressing FOIA appeals resulting from FOIA requests to Headquarters Components is to assign them directly to the Coast Guard ALJ program. Effective immediately, any appeals filed with OGC shall be referred to the Coast Guard ALJ program. In addition, any FOIA appeals currently pending with the OGC or that have been referred by the OGC to the OCC/TSA for review are reassigned for decision-making to the Coast Guard ALJ program.¹

With the exception of four Headquarters Components, the Privacy Office will reimburse the costs of the Coast Guard's decision-making work on the Headquarters Components and Office of the Secretary FOIA appeals, in accordance with reimbursable agreements under the Economy Act, 31 U.S.C. § 1535, because the appeals are from actions taken by the Privacy Office in its capacity as the FOIA Office for those Components and the Office of the Secretary. The exceptions are: PLCY; OGC; I&A; and CRCL, because these Components provide their own FOIA services. Therefore,

¹ Appeals that have been filed with TSA regarding FOIA requests to TSA itself will be processed consistent with our recent memorandum to DHS FOIA Appeals Officers and DHS FOIA Officers regarding Reassignment of Certain Freedom of Information Act (FOIA) Appeals to United States Coast Guard Administrative Law Judges, dated July 8, 2011.

they will be responsible for entering relevant reimbursable agreements with the Coast Guard to pay for FOIA appeals work. Reimbursement by the Privacy Office on behalf of the Headquarters Components may be revisited at a later date depending on costs and impact to processing.

If you have any questions concerning these procedures, please contact Delores Barber, Deputy Chief FOIA Officer, 703-235-0790.