



DEPARTMENT OF HEALTH & HUMAN SERVICES

National Institutes of Health
National Heart Lung and Blood Institute
FOIA Office, Building 31, Room 5A33
31 Center Drive MSC 2490
Bethesda MD 20892-2490

July 21, 2005

sent by fax
2 Aug 2005

Eugene Goldwasser, Ph.D.
University of Chicago
Dept/Biochemistry & Molecular Biology
Cummings Life Science Center
920 East 58th Street
Chicago, IL 60637

Re: FOIA Case No. 05-FOI-00064-NHLBI -30857

Dear Dr. Goldwasser:

Ms. Patricia Carson, Kaye Scholer LLP, has requested a copy of your grant application, any documents, publications & correspondence relating to the following grants: HL030121, HL016005, HL021676; PI: Eugene Goldwasser. Enclosed is a copy of the request. The Freedom of Information Act (FOIA) requires release of records held by the Government, except for any portions permitted to be withheld under the exemptions set forth in the FOIA.

Consistent with the enclosed general guidance, please advise us of any portions of the records that you believe should be withheld. You may find it convenient to send us an extra copy of the material, either in hard copy or electronic form, indicating the portions that you recommend be withheld. We are required to separate out information that the FOIA requires us to release, even though other parts of a document may be withheld. The general guidance will help you identify such portions. Because the information in grant records is required, standard set forth in *National Parks & Conservation Ass'n v. Morton*, 498 F.2d 765 (D.C. Cir. 1974) applies.

The FOIA mandates that we respond to the requester within a certain period of time. Therefore, please provide us with your reply by August 4. We would like to have a response from you even if you find that no material should be withheld. If that is the case, you may indicate your approval for release in the space provided below and return this letter to me via fax (301-402-3604). If you have any questions or need additional information, please contact me at 301-496-9737.

Sincerely,

Suzanne A. Freeman
NHLBI FOIA Coordinator

Enclosures: FOIA request; General Guidance; Reference Guide

APPROVAL FOR RELEASE:

Name

2 Aug 05

Date

KAYE SCHOLER LL.P.

Suzanne Freeman

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January 6, 2005

4. Any documents, publications and correspondence relating to all grants funded under number HL-016005 as identified in item 3 (above), regardless of the availability of those grants.
5. Applications and related applications, revisions, reports, budgets and any other available material funded under NHBLI grant number HL-021676 (PI: Eugene Goldwasser, University of Chicago). According to CRISP, this program has 22 separate entries (last funded in FY 1997) having the following titles:

Purification and Properties of Erythropoietin
Erythropoietin: Purification, Properties, Biogenesis
Erythropoietin: Purification, Properties, & Biogenesis
Erythropoietin - Purification, Properties, Biogenesis

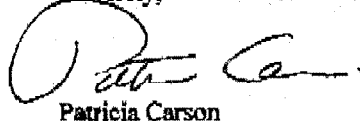
6. Any documents, publications and correspondence relating to all grants funded under number HL-021676 as identified in item 3 (above), regardless of the availability of those grants.

These data are being requested under OMB Revised Circular A110.

I understand that this request may incur costs. I agree to pay all reasonable fees that will be assessed in association with this request, in accordance with 45 C.F.R. §§ 5.41-45, up to the amount of \$1,000.00. Please contact me if you estimate that the fees necessary to comply with this request will exceed this amount.

If you require any additional information to satisfy this request, please contact me at (212) 836-7466. Thank you in advance for your assistance.

Sincerely,



Patricia Carson

31000835.DOC

NEW YORK CHICAGO LOS ANGELES WASHINGTON, D.C. WEST PALM BEACH FRANKFURT HONG KONG LONDON SHANGHAI

AM-ITC 00040203

I.B.2

GENERAL GUIDANCE FOR THOSE WHOSE GRANT MATERIALS
 HAVE BEEN REQUESTED BY OTHER PERSONS

(Small Business Innovation Research Grantees: See Special
 Note at End)

NIH personnel usually consider two exemptions in the Freedom of Information Act in deciding whether to withhold from disclosure material in grant applications, progress reports, and other information sent by the grantee. Exemption 4 permits withholding of "trade secrets and commercial or financial information." Exemption 6 permits withholding certain information, the disclosure of which "would constitute a clearly unwarranted invasion of personal privacy."

We at NIH need an adequate and convincing justification for material that you believe should be withheld under the Act. The general guidelines below may assist you in requesting the withholding of information under Exemption 4 and 6.

Exemption 4: If certain information in your application or progress report may lead to a patent, please identify it, and we shall refer the matter to a Government patent attorney for a determination. For patentable information, it is not necessary for you to go through the following step.

If you are or will be engaged in trade or commerce and ask that certain information be deleted, it is necessary for you to establish that release would reveal a trade secret or would result in substantial competitive harm. Some factors that you may wish to describe to help us understand your position are: (1) the general custom or usage in the type of trade or commerce, (2) the number and situation of the persons who have access to the information, (3) the type and degree of risk of financial injury that release would cause you, and (4) the length of time the information will need to be kept confidential.

NIH cannot withhold information that is known through custom or usage in a trade, business, or profession, or information that is generally known to any reasonably educated person. Self-evident statements or reviews of the general state of the art cannot ordinarily be withheld. If information in a research protocol is not to be used in trade or business, it cannot be withheld.

Concerning cost data that you have submitted: we at NIH generally release such data contained in grant applications. If, however, you suggest that we delete certain cost figures, please submit a justification.

I.B.2

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Exemption 6: NIH must balance the need to keep a person's private affairs from unnecessary public scrutiny, with the preservation of the public's right to information on Government records. We at NIH shall automatically delete any social security numbers, pending and private support, percentage of effort on project, and institutional base salaries. The Public Health Service policy requires us to release other salary information and fringe benefits on all personnel who are listed on the grant application.

Special note to SBIR grantees: Even though you may have stated that certain information was confidential when you submitted your grant application, we need your up-to-date advice. Will you therefore please go through the above procedure, even if it is only to affirm the advice given on your application. FOI personnel at NIH will then make a decision. SBIR grantees need not submit a justification for deleting cost figures on the budget page(s); we at NIH shall delete all cost figures from the budget page except those that also appear on the grant award notice which is a public document. Public Law 102-564, October 28, 1992, requires us to withhold the Phase I Final Report for 4 years after the data were generated, unless the grantee is willing to disclose it sooner.

GRANT APPLICATIONS and SUMMARY STATEMENTS REFERENCE GUIDE

Standard Redactions from Funded Grant Applications

- EIN Number
- Social Security Numbers
- Birthdates
- Home Addresses
- Home Phone Numbers
- Percentage of Effort (on applications submitted on PHS 398 Rev. 9/91 or thereafter)
- Institutional Base Salary
- References to Percentage of Effort on Projects Reflected in the Narrative of the Application – frequently found in the Budget Justification
- Source of Private Support – redact only the source, release to the amount of the funding
- Pending Support – redact entirely
- Evaluation Criteria
- Patentable Material – as identified by the PI
- Trade Secrets – as identified by the PI
- Publications in Press/Preparation/Submitted/Forthcoming/To Appear

Standard Redactions from Summary Statements

- Priority Score
- Percentiles
- Direct Cost Recommended/Estimated Costs
- Description – Redact Opinion
- Resume-qualifiers (ex: Dr. Smith is an *excellent* researcher); opinions and evaluative comments
- Critique – redact entirely
- Budget – redact entirely
- Recommendations – redact entirely
- Special Notes – redact entirely

NOTE: Do Not Redact Direct Cost Recommended From Summary Statements

Revised 9/02

Standard Redactions from Funded SBIR Grant Applications.

- EIN Number
- Social Security Numbers
- Number of Employees
- Square Footage of Office Space/Buildings
- Birthdates
- Breakdown/Itemization of Dollars on the Budget Page – Release Only the Total Figures
- Consultant Names, Company/Institution, Letters
- Pending Support – redact entirely
- Source of Private Support – redact only the source, release to the amount of the funding
- Patentable Material – as identified by the PI
- Trade Secrets – as identified by the PI
- Publications in Press/Preparation/Submitted/Forthcoming/To Appear
- Biographical Sketches of Subcontractor Employees and Consultants

Revised 9/02

TOTAL P.09

AM-ITC 00040207