

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE
COURT OF REVIEW
WASHINGTON, D.C.

IN RE: DIRECTIVES PURSUANT TO SECTION)
105B OF THE FOREIGN INTELLIGENCE) Docket No. 08-01
SURVEILLANCE ACT)
_____)

MOTION FOR STAY OF PROCEEDINGS DUE TO LAPSE OF APPROPRIATIONS

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The United States hereby moves for a stay of proceedings in this matter including, in particular, a stay of four upcoming deadlines, due to a lapse in Government appropriations. In support thereof, the Government states as follows:

1. At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice (“Department”) expired and annual appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property,” 31 U.S.C. § 1342.

3. There are four deadlines that the parties currently face in this case during the month of October, the first, second, and fourth of which were set by this Court’s October 3, 2013 Order and the second of which the Government proposed. Those deadlines are as follows:

- October 7: Deadline for Notice of whether the Government intends to oppose the Provider’s Motion “To Allow Pre-Publication Review of Documents Produced in Response to this Court’s June 28, 2013 Order”
- October 10: Deadline for status report on review of documents
- October 11: Deadline for the Government to oppose the Provider’s Motion
- October 18: Deadline for Provider to file a Reply

In light of the lapse of appropriations, the Government requests a stay of these four deadlines and all other proceedings until Congress has restored appropriations to the Department.

4. If this motion for a stay is granted, undersigned counsel proposes to notify the Court within five days after Congress has appropriated funds for the Department. The Government proposes that, at that point in time, deadlines can be re-set as appropriate under the circumstances. The Government believes that the October deadlines identified above should be extended by a time period at least equal to the duration of the lapse in appropriations, or perhaps by longer if future circumstances warrant. While the Government cannot predict the ultimate impact the lapse in appropriations will have, at this point the Government does not anticipate that any other present deadlines would need to be extended.

5. On October 4, undersigned counsel for the Government contacted the Provider's counsel in order to ascertain the Provider's position regarding this motion. The Provider takes no position on this issue.

Therefore, although we greatly regret any disruption caused to the Court and the other party, the Government hereby moves for a stay of proceedings in this case including, in particular, the October deadlines outlined above, until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

October 4, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the United States' Motion for Stay of Proceedings Due to Lapse of Appropriations was served by the Government via Federal Express overnight delivery addressed to:

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