



**U.S. Department of Justice**

*Executive Office for United States Attorneys  
Freedom of Information & Privacy Staff  
600 E Street, N.W., Suite 7300, Bicentennial Building  
Washington, DC 20530-0001  
(202) 252-6020 FAX: 252-6047 (www.usdoj.gov/usao)*

April 30, 2015

Jonathan Ashley  
University of Virginia School of Law  
580 Massie Road, Room WB237a  
Charlottesville, Virginia 22903-1738

Re: Request Number: FOIA-2015-00655  
Date of Receipt: April 24, 2014  
Subject of Request: Advanced Containment Systems Inc. and Atrium Corporation  
(Corporate Non-Individual records only)/TXS

Dear Mr. Ashley:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a **supplemental response** from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Office.

To provide you with the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act. 28 CFR § 16.81. We have also processed your request under the Freedom of Information Act and are making all records required to be released, or considered appropriate for release as a matter of discretion, available to you. This letter is a [ X ] partial [ ] full denial.

Enclosed please find:

8 page(s) are being released in full (RIF);  
13 page(s) are being released in part (RIP);  
       page(s) are withheld in full (WIF). **The redacted/withheld documents were reviewed to determine if any information could be segregated for release.**

The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

(B)(6)  
(B)(7)(c)

This is the final action on this above-numbered request. If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, Washington, DC 20530-0001, or you may submit an appeal through this Office's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received within sixty days from the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "Susan B. Gerson". The signature is written in a cursive style with a large initial "S" and "G".

Susan B. Gerson  
Assistant Director

Enclosure(s)

## EXPLANATION OF EXEMPTIONS

### FOIA: TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by and Executive order to be kept secret in the in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

### PRIVACY ACT: TITLE 5, UNITED STATES CODE, SECTION 552a

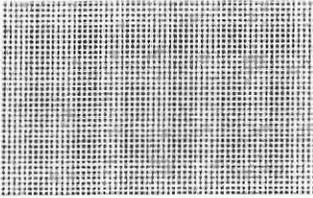
- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to Executive Order 12356 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualification for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.

**U.S. Department of Justice**  
*United States Attorney's Office*  
*Southern District of Texas*

919 Milam Street, ii 1500  
Post Office Box 61129  
Houston, Texas 77208

Phone (713) 567-9000  
Fax (713) 718-3300

December 5, 2011



(B)(6)  
(B)(7)(c)

Re: Non-Prosecution Agreement - Advanced Containment Systems Incorporated

Dear  (B)(6)  
(B)(7)(c)

On the understandings specified below, the United States Attorney's Office for the Southern District of Texas ("this Office") and Homeland Security Investigations ("HSI") will not bring any criminal, civil, or administrative action against Advanced Containment Systems Incorporated ("ACSI"), or any of its direct or indirect subsidiaries, for any crimes related to the conspiracy to encourage unlawful immigration and the hiring of undocumented aliens from at least 2005 through 2009, inclusive. These crimes include, but are not limited to, offenses arising under Title 8, United States Code, §§ 1324(a)(1)(A)(iii) (harboring aliens), 1324(a)(1)(A)(iv) (encouraging or inducing illegal immigration), and 1324a (unlawful employment of aliens); and Title 42, United States Code, § 408(a)(7)(B) (misrepresentation of social security numbers). This Non-Prosecution Agreement (NPA or Agreement) applies only to conduct that occurred prior to the date of its execution, and specifically excludes criminal tax violations, which are under the jurisdiction of the Department of Justice-Tax Division and cannot be negotiated by this Office.

This Agreement does not provide any protection against prosecution for any crimes except as set forth above, and applies only to ACSI. This Agreement does not apply to any other entities or individuals. ACSI expressly understands that the protections provided to it by this Agreement shall not apply to any successor entities, whether the successor's interest arises through a merger or plan of reorganization, unless and until such successor formally adopts and executes this Agreement. The protections arising from this Agreement will not apply to any purchasers of all or substantially all of the assets of ACSI, unless such purchaser enters into a written agreement, on terms acceptable to this Office, agreeing in substance to undertake all obligations set forth in this Agreement. Without limiting the effect of any other provision of this Agreement, this Office understands and ACSI agrees that should ACSI acquire, directly or indirectly, another entity, via merger, purchase of all or substantially all of their assets, or otherwise, ACSI will make reasonable efforts to, and will be afforded a prudent period of time to, ensure that the newly-acquired entity adopts and implements an immigration compliance program substantially similar in substance to that adopted by ACSI, as outlined in this Agreement.

It is understood that ACSI: (a) shall truthfully and completely disclose all information with respect to the activities of ACSI, including its present and former officers and employees, and others concerning all matters about which this Office inquires of it; (b) shall cooperate fully with this Office, HSI, and any other law enforcement agency designated by this Office; (c) shall, at this Office's request, use its best efforts promptly to secure the attendance and truthful statements or testimony of any officer, agent, or employee at any meeting or interview, before the grand jury, or at any trial or any court proceeding; (d) shall use its best efforts promptly to provide this Office, upon request, any document, record, or other tangible evidence relating to matters or conduct about which this Office or any designated law enforcement agency inquires; (e) shall bring to this Office's attention all criminal conduct by or criminal investigations of ACSI or its respective senior managerial employees that comes to the attention of ACSI's Board of Directors or senior management, as well as any administrative proceeding or civil action brought by any governmental authority that alleges immigration violations by ACSI; and (f) shall install an internal audit system utilizing an outside auditor that will receive, review and inspect, all documents and records that the auditor requires to address ACSI's compliance with the Non-Prosecution Agreement.

It is understood that ACSI accepts and acknowledges responsibility for the facts as set forth in Exhibit A, which is incorporated herein by reference. ACSI further agrees that it will not, through its present or future Board of Directors, attorneys, officers, agents or management employees, make any public statements contradicting any of the facts as set forth in Exhibit A. Any such contradictory public statement by ACSI, its present or future Board of Directors, attorneys, officers, agents or management employees, shall constitute a breach of this Agreement, and ACSI would be subject to prosecution by this Office pursuant to the terms of this Agreement. The decision of whether any public statement by any such person contradicting a fact contained in Exhibit A will be imputed to ACSI for the purposes of determining whether ACSI has breached this Agreement shall be at the sole discretion of this Office. Upon this Office's determination that such a contradictory statement has been made by ACSI, this Office shall notify ACSI, which may avoid a breach of this Agreement by publicly repudiating such statement within forty-eight (48) hours after notification by this Office. This paragraph is not intended to apply to any statement made by any individual in the course of any criminal, regulatory, or civil case initiated by the United States against such individuals unless the individual is speaking on behalf of ACSI.

It is further understood that ACSI and its subsidiaries: (a) shall continue to use E-Verify; (b) shall comply with all newly-adopted immigration compliance procedures, (c) shall provide company-wide formal training on Form I-9 procedures; (d) shall continue to retain and consult with immigration counsel; (e) shall terminate and/or discipline all individuals responsible for the hiring or continued employment of undocumented aliens; (f) shall revamp existing procedures for responding to complaints by employees and outside parties, including the devotion of additional resources to properly investigate, track, and close out complaints; and (g) shall appoint a full time Chief Compliance Officer.

This Agreement, and ACSI's obligations hereunder, shall remain in effect, as follows: (a) for a term of twenty-four (24) months from the date this Agreement is executed; or (b) the date upon

which all prosecutions arising out of the conduct described in the opening paragraph of this Agreement are final, whichever is later.

It is understood that ACSI agrees to deliver \$2,000,000 to the United States, via a certified check made payable to the United States Customs and Border Protection, by December 31, 2011. ACSI stipulates that the tendered funds are subject to forfeiture as proceeds under Title 18, United States Code, § 981(a)(1)(A), and agrees to forfeit the funds to the United States. ACSI agrees to waive all rights, title, and interest in the above funds, including any notice requirements or limitations periods established by law or the Constitution. ACSI agrees that it will not contest the administrative forfeiture of the above funds in any manner, either directly or in a collateral proceeding, and further agrees to cooperate fully with HSI in the administrative forfeiture. ACSI stipulates that no third parties have an interest in the funds, and agrees that it will assist the United States in defending against any third party claims or petitions. The funds will be deposited into the Department of Treasury Forfeiture Fund for law enforcement purposes, as determined by the Department of Treasury in accordance with Title 31, United States Code Section 9703.

It is understood that, should this Office determine that ACSI has committed any crimes during the term of this Agreement, or that ACSI or any of its representatives have given false, incomplete, or misleading testimony or information, or should ACSI otherwise violate any provision of this Agreement, ACSI shall thereafter be subject to prosecution for any federal violation of which this Office has knowledge, including perjury and obstruction of justice, and any such prosecution that is not time-barred by the applicable statute of limitations on the date of the execution of this Agreement may be commenced against ACSI, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecution.

It is understood that if it is determined that ACSI has committed any crime after the signing of this Agreement or that ACSI or any of its representatives have given false, incomplete, or misleading testimony or information, or have otherwise violated any provision of this Agreement, then: (a) all statements made by ACSI representatives to this Office, HSI, or other designated law enforcement agents, and any testimony given by ACSI representatives before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statement or testimony, shall be admissible in evidence in any criminal proceeding brought against ACSI; and (b) ACSI shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

Nothing in this Agreement shall be construed as a waiver of any attorney-client or work-product privileges.

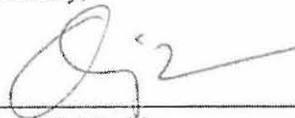
It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office and HSI. This Office will, however, bring the cooperation of ACSI to the attention of other prosecuting and other investigative officers if requested

by ACSI.

It is further understood that ACSI, this Office, and HSI may disclose this Agreement to the public.

With respect to this matter, from the date of the signing of this Agreement forward, the Agreement supersedes all prior, if any, understandings, promises and/or conditions between this Office/HSI and ACSI. No additional promises, agreements, and conditions have been entered into other than those set forth in this letter and none will be entered into unless in writing and signed by all parties.

Sincerely,



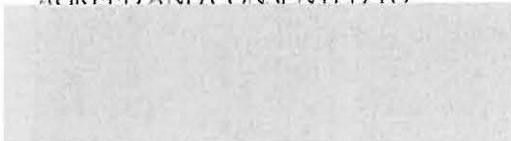
Kenneth Magidson  
United States Attorney



(B)(6)  
(B)(7)(c)

Special Agent in Charge  
Houston Office  
Homeland Security Investigations

AGREED AND CONSENTED TO:



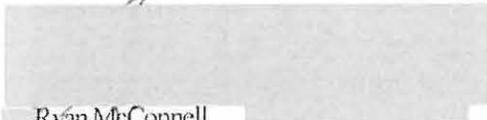
(B)(6)  
(B)(7)(c)

12/27/11

Date

President

APPROVED:



(B)(6)  
(B)(7)(c)

27 December 2011

Date

Ryan McConnell  
Attorney for ACSI

## EXHIBIT A

In any criminal prosecution or regulatory action brought by the United States, the following statement shall be admissible against Advanced Containment Systems, Inc. (hereafter, "ACSI") and/or any of its subsidiaries, to-wit:

ACSI is a company located in South Houston that designs and manufactures custom emergency response vehicles and trailers. ACSI offers emergency decontamination systems, restroom and shower trailers, surge systems, mobile command centers, abatement equipment, mobile laboratory facilities, and interchangeable pods. ACSI was founded in 1988 and during the time in question had a workforce of over three hundred employees.

From 2005 through 2007, ACSI received of notice from the Social Security Administration (SSA) known as "No-Match Letters." The letters indicated that the employee names and social security numbers provided by ACSI to SSA did not match SSA records. Upon receiving the letters, ACSI failed to take adequate corrective measures, which resulted in the continued employment of the undocumented aliens. For example, in May 2005, ACSI received No-Match Letters relating to employees employed during 2004. The No-Match Letters indicated that the names and social security numbers provided by ACSI to SSA for over two-hundred-fifty (250) employees did not match SSA records. ACSI took no action to reconcile the no-match information for their employees.

In May 2006, SSA continued to notify ACSI through No-Match letters that many of ACSI employees were working with social security numbers and names with discrepancies. The No-Match Letters indicated that the names and social security numbers provided by ACSI to SSA for over three-hundred-fifty (350) employees did not match SSA records. From 2005 through 2009, ACSI failed to take adequate corrective measures, which resulted in the continued employment of undocumented aliens. ACSI took no action to reconcile the no-match information for their employees. From 2005 through 2009, ACSI continued to employ undocumented aliens that it knew or should have known were undocumented and therefore unauthorized to work in the United States. As a result, ACSI paid approximately \$2,000,000 in wages to these undocumented aliens between 2005 and 2009. ACSI derived at least \$2,000,000 in revenue from the sale of products manufactured and services provided with this illegal workforce. The revenue was then deposited back into the company's bank accounts in deposits each exceeding \$10,000 and which totaled at least \$2,000,000.

In October 2008, HSI received a complaint from a terminated employee who alleged that (B)(6) ACSI through one person in management was pressuring ██████████ to hire undocumented aliens to staff the (B)(7)(c) workforce. The employee claimed that ACSI was using illegal aliens to manufacture the pods, many of which were used by the U.S. military. The employee complained to management about the hiring of illegal aliens. After complaining, the employee was fired and filed a lawsuit for wrongful termination in the 133<sup>rd</sup> Judicial District of Harris County, Texas. HSI learned of the lawsuit and opened an investigation.

A Grand Jury (GJ) subpoena was served upon ACSI July 29, 2010, requesting all documents associated with its hiring practices. During the subsequent review of the GJ records, and particularly the Employment Eligibility Verification Forms (Forms I-9), HSI identified numerous "egregiously

suspect” identification documents that were provided to ACSI by its illegal workforce during the hiring process. Some of the documents referred to the “Texas Department of Public Safety” as the *Texas Department of Safety*. Other documents that purported to be “Texas State Identification” cards had the word “*Identification*” and “*Department*” misspelled, and there was an Identification card with the words “*novelty item*” typed on the back of the document. In all, it was determined that ACSI hired and continued to employ 32 individuals with identity and/or work authorization documents that were “egregiously suspect” and that ACSI could face administrative and/or criminal penalties for knowingly hiring unauthorized aliens.

In February 2011, HSI completed an I-9 audit on ACSI that revealed that from 2005 to 2009, approximately 44% of the workforce at the ACSI facility were undocumented aliens employed with fraudulent identification and work authorization documents.

Employers with federal contracts or covered subcontracts awarded after September 8, 2009, and including the E-verify clause, are required to use E-Verify to determine the employment eligibility of: (1) employees performing direct, substantial work under those federal contracts; and (2) new hires organization-wide, regardless of whether they were working on a federal contract. A federal contractor or subcontractor who has a contract with the E-Verify clause also has the option to verify the company’s entire workforce. In November 2009, ACSI ran all of their employees’ names through E-Verify and identified over sixty (60) employees it believed were illegal aliens. Once ACSI identified these employees as illegal aliens and that these individuals were unauthorized to work, ACSI terminated these employees.



U.S. Department of Justice  
United States Attorney's Office  
Southern District of Texas

919 Milam Street, # 1500  
Post Office Box 61129  
Houston, Texas 77208

Phone (713) 567-9000  
Fax (713) 718-3300

December 5, 2011

[Redacted]

(B)(6)  
(B)(7)(c)

Re: Non-Prosecution Agreement - Advanced Containment Systems, Inc.

Dear [Redacted] (B)(6)  
(B)(7)(c)

This United States Attorney's Office (USAO) has decided not to charge Advanced Containment Systems, Inc. (ACSI) in connection with its alleged employment of undocumented aliens. The USAO believes the interests of justice would be best served by offering ACSI, the enclosed Non-Prosecution Agreement (NPA) covering the related conduct.

In reaching this decision, the USAO has considered the arguments against criminal prosecution set forth. The decision to forego prosecution was based on the following reasons, among others: (1) the collateral consequences upon ACSI, as stated during several presentations that you made to Assistant United States Attorneys [Redacted] and [Redacted], resulting from a criminal conviction; (2) the immigration compliance program that has been implemented as a result of Homeland Security Investigation's findings, (3) the removal of [Redacted] from the Human Resources position and (2) the remedial measures taken by ACSI in firing all suspected undocumented aliens once it implemented E-Verify retroactively on its entire workforce. However, if ACSI has overstated or otherwise misrepresented the "collateral consequences" upon its operations, production capacity, or profitability, the USAO reserves the opportunity to reconsider prosecution.

(B)(6)  
(B)(7)(c)  
(B)(6)  
(B)(7)(c)

Once you have reviewed the NPA please sign in the space indicated as counsel for ACSI. Also, please secure the signature of [Redacted], President of ACSI. Further, please return the signed original to our office for safekeeping within our investigative file. If you have any further questions or comments, please do not hesitate to contact the assigned assistant U.S. attorney.

(B)(6)  
(B)(7)(c)

Sincerely,  
  
Kenneth Magidson  
United States Attorney

Enclosure