Washington, Brenda

From: Morgan, Phyllis
Sent: Thursday, May 21, 2009 2:44 PM
To: Washington, Brenda
Subject: FOIA 2009-000210

Attachments: FOIA 2009.000210 Final Letter of Response ...pdf

Catherine Lylerly is no longer employed by INPUT. Monica Jones made a telephonic adjustment in their request changing the requestor's name to Monica Jones.

Here is a copy of the signed letter. Sorry, I sent you GC's unsigned copy on yesterday.

FOIA 2009.000210
Final Letter ...

Department of Energy
Washington, DC 20585

MAY 20 2009

CERTIFIED MAIL

INPUT
Attn: Ms. Monica Jones
11720 Plaza America Drive, 12th Floor
Reston, VA 20190

Dear Ms. Jones:

This letter is in response to your request for information that you sent to the Department of Energy (DOE), number 2009-000210, made pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552. You requested a copy of the contract awarded to Information, Inc. with a revised request for the contract period of performance from June 2006 through July 2009.

We have completed our search and review of the document responsive to your request. The information you requested is being provided to you with certain information withheld pursuant to Exemption 4 of the FOIA, 5 U.SC. 552 (b)(4) and Exemption 6 of the FOIA, 5 U.S.C. 552(b)(6).

Exemption 4 protects "trade secrets and commercial or financial information obtained from a person and is privileged or confidential." Information that is required to be submitted by a person is "confidential" for purposes of Exemption 4 if disclosure is likely to either: (1) impair the Government's ability to obtain necessary information in the future or (2) cause substantial harm to the competitive position of the person from whom the information was obtained. Portions deleted from the documents enclosed contain "commercial" or "financial" information that relates to business activities. Labor rates and other specific cost information have been deleted as they refer specifically to proprietary information relating to costs, resource allocation and expert personnel. In addition, proprietary business strategy, organization information and confidential client information has also been redacted. The release of rates of specific employees and costs of specific services would disclose the firm's organizational structure and its approach to analyzing and responding to various requirements. Disclosure of the information would also reveal the firm's capabilities, available resources and methods of allocating them. Such information would give competitors an advantage in the future by providing insight on resources available to the submitter and the method used to respond to a solicitation. The release of confidential client information would also cause substantial harm to the firm's competitive position. For these reasons the information is being withheld.

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To the extent permitted by law, the DOE pursuant to Title 10, Code of Federal Regulations (CFR), Section 1004.1, will make available records that it is authorized to withhold under the FOIA when it determines that such disclosure is in the public interest. The discretionary disclosure of the information withheld under Exemption 4 could constitute a violation of the Trade Secret Act, 18 U.S.C. 1905, unless its release is otherwise authorized by law. Since there is no DOE regulation or statutory authority currently in effect that constitutes an "authorization by law" for the release of the information falling within Section 1905, discretionary release of the material exempt under Exemption 4 is prohibited.

The exemption also protects the interest of both the government and submitters of information. Its existence encourages submitters to voluntarily furnish useful commercial or financial information to the government and it correspondingly provides the government with an assurance that such information will be reliable.

Exemption 6 protects "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Under Exemption 6, portions deleted from the documents enclosed contain identities of the key personnel of the contractor. The individuals named in these documents have a significant privacy interest in the personal information about them contained therein in order to be free from unwanted solicitations or contact. This information is not information which is relative to the operations of the agency or the federal government, the core purpose for which the FOIA was enacted. Since no public interest relative to the core purpose of FOIA would be served by disclosure of these individuals' personal information, and since there is a viable privacy interest which would be threatened by such disclosure, Exemption 6 authorizes the withholding of this material.

Pursuant to 10 CFR 1004.7 (b)(2), I am responsible for the determination to withhold the information under Exemption 4 and Exemption 6.

Pursuant to 10 CFR 1004.8, you may challenge the determination to withhold information from the responsive documents by submitting a written appeal to the Director, Office of Hearings and Appeals, L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-1615. You should submit the appeal within thirty (30) calendar days of receipt of this determination. The written appeal, including the envelope, must clearly indicate that a Freedom of Information Act appeal is being made. The appeal also must contain all the elements required by 10 CFR 1004.8.

The costs incurred to process the request were $85.04. The Department will be requesting payment for this charge under a separate letter.

I appreciate the opportunity to assist you. If you have any questions, please contact Phyllis Morgan at (202) 287-1504.

Sincerely,

Phyllis P. Morgan, Procurement Analyst
Office of Headquarters Procurement Services
Corporate Services Division

Enclosure