Department of Energy
Washington, DC 20585

April 1, 2009

MEMORANDUM TO: MIRIAM LEGAN, FOIA OFFICER
CHICAGO OFFICE

CLAYTON OGILVIE, FOIA OFFICER
IDAHO OPERATIONS OFFICE

ANNA MARTINEZ-BARNISH, FOIA OFFICER
GOLDEN FIELD OFFICE

CAROLYN BECKNELL, FOIA OFFICER
NNSA SERVICE CENTER

AMY ROTHROCK, FOIA OFFICER
OAK RIDGE OFFICE

MICHAEL TALBOT, FOIA OFFICER
PACIFIC NORTHWEST SITE OFFICE

PAULINE CONNER, FOIA OFFICER
SAVANNAH RIVER OPERATIONS OFFICE

FROM: ALEXANDER C. MORRIS, FOIA OFFICER
OFFICE OF INFORMATION RESOURCES

SUBJECT: FOIA REQUEST OF ZACHARY DAGNEAU
(FOIA-2009-000203)

The attached request submitted by Mr. Zachary Dagneau is transferred to your office for action. Mr. Dagneau submitted the request under the Freedom of Information Act. Please conduct a search for responsive documents and inform him of the results of the search.

For your information, I have attached a copy of our correspondence to Mr. Dagneau. If you have questions about this transmittal, please contact Ms. Joan Ogbazghi on (202) 586-3595.

Attachments

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CREW | citizens for responsibility and ethics in washington

Mr. Alexander Morris
Freedom of Information Officer
1000 Independence Ave, SW
Washington DC, 20585

MAR 19 2009 02

2 HOURS ... FREE, 100 FREE PAGES

Re: Freedom of Information Act Request

Dear Mr. Morris:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes and photographs, pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq. and Department of Defense ("DOD") regulations, 28 C.F.R. Part 16.

CREW seeks documents pertaining to the Department of Energy's sixteen (16) Federally Funded Research and Developments Centers (FFRDC) including: Idaho National Engineering and Environmental Laboratory; Sandia National Laboratory; Savannah River Technology Center; Ames Laboratory; Argonne National Laboratory; Ernest Orlando Lawrence Berkley National Laboratory; Fermi National Accelerator Laboratory; Lawrence Livermore National Laboratory; Los Alamos National Laboratory; Princeton Plasma Physics Laboratory; Stanford Linear Accelerator Center; Thomas Jefferson National Accelerator Facility; Brookhaven National Laboratory; National Renewable Energy Laboratory; Oak Ridge National Laboratory; and Pacific Northwest National Laboratory. Specifically, CREW seeks documents related to these FFRDC's employee conflict of interest policies, as well as documents pertaining to their annual research plans, budgets and expenditures for FY 2007.

Please search responsive records regardless of format, medium, or physical characteristics. Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs. Our request includes any telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or discussions, whether in-person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, minutes of any such meetings and/or discussions, the topics discussed at those meetings and/or discussions, e-mail regarding meetings and/or discussions, e-mail or facsimiles sent as a result of those meetings and/or discussions, and transcripts or notes of any such meetings and/or discussions.

If it is your position that any portion of the requested records is exempt from

FOIA-2009-000203

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disclosure, CREW requests that you provide it with an index of those documents as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity "to permit a reasoned judgment as to whether the material is actually exempt under FOIA." Founding Church of Scientology v. Bell, 603 F.2d 945, 949 (D.C. Cir. 1979). Moreover, the Vaughn index must "describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information." King v. U.S. Dep't of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'" Id. at 224 (citing Mead Data Central v. U.S. Dep't of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977).

In the event that some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii), CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government and expenditures, and the disclosures will likely contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. §552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9th Cir. 1987). Specifically, these records are likely to contribute to the public's understanding of the inner workings of Department of Energy FFRDCs. Finally, CREW believes that records pertaining to the FY2007 budgets and expenditures of Department of Energy FFRDCs will increase the public's understanding of how the government allocates 14% of its annual research and development monies to these FFRDCs.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue code. CREW is committed to the protection of the citizen's right to be aware of the activities of government officials and to ensuring the integrity of those officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the government decision-making process. CREW uses a combination of research, litigation, and advocacy to advance its mission. The release of information garnered through this request is not in CREW's financial interest. CREW

will analyze the information responsive to this request, and will likely share its analysis with the public, either through memorandums, reports or press releases. In addition, CREW will disseminate any documents it acquires from this request to the public. CREW has established an interactive website where members of the public can analyze and comment on public documents, including documents CREW acquires through the FOIA. See http://foia.citizensforethics.org/home. Currently, CREW's website contains links to thousands of pages of documents CREW acquired from multiple FOIA requests. CREW's website, www.citizensforethics.org, also includes documents relating to CREW's FOIA litigation, Internal Revenue complaints, and Federal Election Commission complaints. As CREW's website demonstrates, CREW has an established history of acquiring documents through the FOIA and publishing them on its website for public use.

Under these circumstances, CREW fully satisfied the criteria for a fee waiver.

Conclusion

Please respond to this request in writing within an expedited time-frame. If all of the requested documents are not available within that time period, CREW requests that you provide all requested documents or portions of documents which are available within that time period.

If you have any questions about this request or foresee any problems in releasing fully the requested records within the twenty-day period, please contact me at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such determination. Please send the requested documents to Zachary J.M. Dagneau, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Sincerely,

Zachary J.M. Dagneau
Research Associate
Citizens for Responsibility & Ethics in Washington

Department of Energy
Washington, DC 20585

April 1, 2009

Mr. Zachary Dagneau
Citizens for Responsibility
and Ethics in Washington
1400 Eye Street, NW, Suite 450
Washington, DC 20005

Re: FOIA-2009-000203

Dear Mr. Dagneau:

This is in further response to the request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. 552. You asked for documents that relate to the sixteen DOE Federally Funded Research and Development Centers. Specifically, you asked for employee conflict of interest policies, annual research plans, budgets, and expenditures for FY 2007.

In a conversation with Ms. Joan Ogbazghi, you clarified that you request documents for FY 2007 only. In addition, you stated that you seek supplemental and summary documents that relate to research plans, budgets, and expenditures, and not "records of any kind" as listed in the request. You also withdrew your request for expedited processing of the request.

Any documents that may exist at the DOE that are responsive to the request are under the jurisdiction of several DOE field locations. I have sent the request to the FOIA Officers at those locations to conduct searches of their respective files and provide you a response about releasability of responsive documents that are located.

In your letter you requested a waiver of fees associated with the processing of the request. You stated that CREW seeks the information to inform the public about the DOE process for allocating its annual research and development funds to the Federally Funded Research and Development Centers. In addition, you stated a waiver is appropriate because dissemination of the material is in the public interest and not in the commercial interest of CREW, a non-profit corporation.

For purposes of assessment of any fees, you have been categorized under the DOE regulation that implements the FOIA at Title 10, Code of Federal Regulations, Section 1004.9(b)(4), as an "other" requester. Requesters in this category are entitled to two free hours of search time and 100 pages of duplication at no cost.

The FOIA Officers at the field locations have reviewed the information that you provided in your letter to support the request for a fee waiver and have determined that the information satisfies the criteria considered for a waiver of fees. A waiver, therefore, is appropriate for any fees that may be incurred because the subject of the request relates to a government activity, and information about the activity could lead to greater public understanding about the matter.

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If you have questions about the processing of the request at the field locations, you may contact the following FOIA Officers:

Ms. Miriam Legan, Chicago Office, 9800 S. Cass Avenue, Argonne, IL 60439, (630) 252-2041 (Ames Laboratory, Argonne National Laboratory, Ernest Orlando Lawrence Berkeley National Laboratory, Fermi National Accelerator Laboratory, Princeton Plasma Physics Laboratory, Brookhaven National Laboratory);

Mr. Clayton Ogilvie, Idaho Operations Office, 1955 Fremont Avenue, Idaho Falls, ID 83401, (208) 526-5190 (Idaho National Engineering and Environmental Laboratory);

Ms. Anna Martinez-Barnish, Golden Field Office, 1617 Cole Boulevard, Golden, CO 80401, (303) 275-4927 (National Renewable Energy Laboratory);

Ms. Carolyn Becknell, National Nuclear Security Administration Service Center, P.O. Box 5400, Albuquerque, NM 87185-5400, (505) 845-4869 (Sandia National Laboratory, Lawrence Livermore National Laboratory, Los Alamos National Laboratory);

Ms. Amy Rothrock, Oak Ridge Office, P.O. Box 2001, Oak Ridge, TN 37831, (865) 576-1216 (Stanford Linear Accelerator Center, Thomas Jefferson National Accelerator Facility, Oak Ridge National Laboratory);

Mr. Michael Talbot, Pacific Northwest Site Office, P.O. Box 350, Mail Stop K8-50, Richland, WA 99352, (509) 372-4365 (Pacific Northwest National Laboratory); and

Ms. Pauline Conner, Savannah River Operations Office, P.O. Box A, Aiken, SC 29801, (803) 952-8134 (Savannah River Technology Center).

This is the final response you will receive from DOE Headquarters about your request. Please contact Ms. Ogbazghi on (202) 586-3595 with any questions about this letter.

I appreciate the opportunity to assist you.

Sincerely,

Alexander C. Morris
FOIA Officer
Office of Information Resources