Morris, Alexander

From: FOIA-Central@hq.doe.gov
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Subject: DOE Headquarters FOIA Request

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COMMERCIAL-SEARCH REVIEW & REPRODUCTION

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Record Description:

On July 1, 2009, Secretary Chu announced the selection of a project of Hydrogen Energy International LLC (HEI) as one of two projects selected under the Clean Coal Power Initiative (CCPI-3). I understand that HEI submitted its application for CCPI-3 funding in January, 2009, and may have provided further material in support of that application between January, 2009 and July 1, 2009 (when the selection was announced). I also understand that there may have been a non-disclosure or other confidentiality agreement between HEI and the DOE (or perhaps between HEI and the National Energy Technology Laboratory (NETL)) that may have applied to some or all of the materials HEI submitted to DOE or NETL in support of its CCPI-3 application.

I request the following documents:

1. HEI's application for funding under the CCPI-3 (dated approximately January, 2009).

2. Any further information HEI submitted to either DOE or NETL in support of its CCPI-3 application (from approximately January, 2009 through July 1, 2009).

3. Any non-disclosure or confidentiality agreement HEI entered into with the DOE or NETL regarding its CCPI-3 application.

4. Any DOE or NETL standard rules that apply to the confidentiality or non-disclosure of materials submitted to DOE or NETL in support of a CCPI-3 application.

Preferred Form or Format: Electronic (pdf) preferred; hard copy is fine as well.

Type of Requester (if provided):

Affiliated with a private corporation and seeking information for the use in the company's business.

Fees and Fee Waivers:

I request a waiver or reduction of fees.

Waiver or Reduction of Fees Factors (if provided):

1. The subject of the request: Whether the subject of the requested records concerns "the operations or activities of the government."

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The requested records directly concern the recent award of funds under the CCPI-3 solicitation.

2. The informative value of the information to be disclosed: Whether the disclosure is "likely to contribute" to an understanding of government operations or activities.

TURN wishes to better understand the information HEI submitted to the DOE in support of the funding request and determination.

3. The contribution to an understanding by the general public of the subject likely to result from disclosure, taking into account your ability and intent to disseminate the information to the public in a form that can further understanding of the subject matter.

TURN may use the information obtained here in a California Public Utilities Commission proceeding considering the prospect of utility ratepayer contribution to HEI's project.

4. The significance of the contribution to public understanding: Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities.

At this point, HEI has refused to provide the requested documents, and has cited "DOE rules" as prohibiting such disclosure of the documents. Therefore, TURN is unable to gain any understanding of the funding application absent obtaining the documents through this request.

5. The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure, and, if so

TURN has no commercial interest that would be furthered by the request. TURN is a non-profit consumer advocacy organization with no activity in any market that would be enhanced because of obtaining access to this information.

6. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester."

As noted above, TURN has no commercial interest in the disclosure.

Expedited Processing:

I believe a compelling need exists to warrant expedited processing because there is:

an urgency to inform the public concerning actual or alleged Federal Government activity exists (this option available ONLY for requesters primarily engaged in disseminating information)

Specific Justification for Expedited Processing:

The California Public Utilities Commission recently conducted evidentiary hearings into a regulated utility's request to contribute funds to the HECA project and to recover those funds in regulated rates. The regulatory proceeding is on a schedule that is likely to produce a decision within several weeks. Providing the requested information on an expedited basis will better enable TURN to ensure the information is provided to the CPUC before it acts on the utility request. However, TURN notes that a response within the 20 working day timeline set forth in FOIA might still be timely, but would be more challenging to ensure is considered by the CPUC in its decision-making process.