



Homeland
Security

February 2, 2011

SENT VIA EMAIL TO: requests@muckrock.com

Mr. Jason Smathers
185 Beacon Street #3
Somerville, MA 02143

Re: 11-OIA-0030

Dear Mr. Smathers:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated January 26, 2011 in which you are seeking all emails received by DHS which were sent to IA.feedback@hq.dhs.gov between January 1, 2010 and the date this request is processed.

Your request was subsequently referred to the Office of Intelligence and Analysis (I&A) and received in this office on January 26, 2011.

As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that you are entitled to a blanket waiver of fees. The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your January 26, 2010 letter and for the reasons stated herein, I have determined that your fee waiver request is deficient. It does not adequately describe how or even whether the contribution to the public understanding of this topic would be "significant." While factor 1 has been met, you did not adequately address factors 2-6 in this fee waiver request. Simply rephrasing the aforementioned factors as affirmative statements in your request does not provide this Department with enough information to grant your request for a waiver of fees. Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request. Additionally, your request for preferred status under the FOIA as a representative of the news media is also denied because your letter was conclusory in nature and did not present any facts or indicate how disclosure of the requested information is of current interest to the public or how it supports public oversight of the government. Decisions on whether to grant or deny media status or a fee waiver are made on a case-by-case basis, and in this instance, your request does not meet the applicable standards for a waiver of fees or preferred fee status.

Provisions of the Act allow us to recover part of the cost of complying with your request. We shall charge you for records in accordance with the DHS Interim FOIA regulations as they apply to non-commercial or "all other" requestor category. As a non-commercial requestor you will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. It is estimated that it would take approximately 91.75 hours to search for and review responsive material. Billable search and review costs at \$10.25 per quarter hour rate for search and review would be \$3761.75. It is estimated that our search would yield over 7300 pages, which would total \$730.00. Based on this information, it is estimated that the overall fee to process your request would be approximately \$4491.75.

Since the total estimated fee exceeds \$250.00, you must make an advance payment of an amount up to the amount of the entire anticipated fee before we began to process your request. See 6 C.F.R. § 5.11 (i). Please submit your check or money order in the amount of \$1,122.93, a quarter of the total estimated fee, made payable to the Treasury of the United States, to this office within 30 days from the date of this letter. Please mail your payment to this office at the following address:

Department of Homeland Security
Office of Intelligence and Analysis
Attn: FOIA Officer
Washington, DC 20528

In the alternative, you may narrow the scope of your request to reduce the universe of responsive records. If you wish to narrow the scope of your request, please send an amended request and

indicate the processing fee amount you are willing to pay within 10 business days from the date of this letter. You may send your amended request to I&AFOIA@HQ.DHS.GOV.

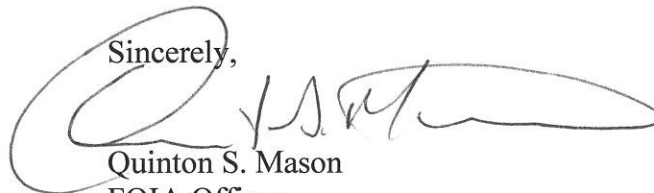
If we do not receive an advanced payment of \$1,122.93 along with your agreement to pay the reminder of the anticipated fee or an amended request from you within thirty (30) days from the date of this letter, we will consider this request withdrawn, and we will administratively close your request file.

If you deem this advisement and your fee category designation an adverse action, you have a right to appeal. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Your request has been assigned reference number **11-OIA-0030**. Please refer to this identifier in any future correspondence. If you have any questions, or would like to discuss this matter, please feel free to contact this office at 202-447-4265.

Sincerely,

A handwritten signature in black ink, appearing to read 'Q. S. Mason', is written over the printed name.

Quinton S. Mason
FOIA Officer

Office of Intelligence and Analysis