

EXHIBIT D



International

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2019.COR.0022

BY EMAIL ONLY

December 9, 2019

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Re: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay
Kaserne, Wiesbaden, Germany
Requester: ECC International LLC ("ECCT")
Date of Request: January 30, 2019
Appeal of USACE Delay/Failure to Produce After Positive Determination,
Clarification, and Perfection of FOIA Requests

Dear Mr. Howard & Mr. Wittaker:

I am writing on behalf of FOIA Requester ECC International LLC ("ECCT") to Mr. Howard as FOIA Officer for CENAU and USACE, and to Mr. Wittaker as USACE FOIA Liaison, to demand overdue production by USACE to the FOIA requests submitted by Requester on January 30, 2019. Alternatively, Requestor seeks formal communication from USACE regarding the progress of USACE's response preparation and a schedule for such production. In ten months, no production has been made by USACE. In the last five months, no communication has been received from USACE, despite properly and timely perfection of the Requests, and repeated requests by Requester for status to no avail. Requester asks that USACE's inaction and non-communication be deemed a constructive denial of the positively determined and perfected Requests, and that this letter be deemed an appeal of that constructive denial, to exhaust all administrative remedies of Requester.

FOIA Request History to Date

The ECCI FOIA Requests were submitted to USACE on January 30, 2019 (Attachment #1-9). In follow up to lack of response by USACE, USACE represented that CENAU "did not receive" the initial FOIA requests submitted by email, although all other recipients copied received the email (see two other recipient's acknowledgement emails in Attachment #10-12). Following the resubmission delay (see Attachment #13-16), clarification of the requests with USACE was successfully completed in March 2019. Requestor agreed to remove the limitation on costs of

research which USACE could charge during the Clarification and Perfection Conference call. (see correspondence in Attachments #17-75).

Since clarification and perfection was completed in March 2019 nine months ago, USACE has never asserted any privilege, security restriction, agency objection, management issue, administrative difficulty, need for redaction work, or any other legal or practical impediment to production of the requested documents. USACE has also not reported any confidential business information or proprietary objection by any third party that would prevent or delay USACE's required production of documents. USACE has no excuse for this delay.

During clarification, we discussed and acknowledged USACE's intent to notify third parties Jacobs Engineering, DCS, and Critical CxE to determine any confidential business or proprietary information objections those third parties may have to production. We discussed and acknowledged that the notification process would likely extend the process by as much as ninety days. I requested to be informed regarding this third party notification process and its progress, but have received no communication as to whether this has occurred, or whether the process impacted USACE's production.

In July 2019, four months after clarification and after we reasonably expected the third party notification process to be completed, I contacted Brett Howard, USACE FOIA Officer and USACE Agency Counsel, by email, and noted that no production had been made, and no impediment or delay had been reported by USACE that would prevent or delay production. I requested a meeting while I was in Wiesbaden for two weeks to discuss USACE's progress and anticipated production. I received no reply to my three biweekly requests during July 2019 (see Attachments #76-79). In response to my monthly "Fourth Request" for status on August 9, 2019, Mr. Howard finally responded that same day:

"Mr. Laurie,

I am receiving your letters. Have been tied up on other matters. Will return to your request today. Sorry for the delay.

Brett"

(see Attachments #80-92)

No further response has been received from USACE since August 9, 2019. Nine weeks later, on October 18, 2019, I sent a "Fifth Request" (see Attachments #93-95). No further communication has been received from USACE and no production has been made by USACE to date.

USACE Breaches of 5 U.S.C. §552

USACE has failed and refused to respond to written communications requesting production or alternatively communication of the status of work toward production regarding the perfected Requests. USACE has breached its duty to produce pursuant to the Freedom of Information Act, 5 U.S.C. §552, by failing to timely respond to the initial request within twenty days and by its subsequent unreasonable failure to comply with the mandatory production of the perfected Requests within the required ten days, having failed to assert any unusual circumstances. Requester has never waived its right to assert breach from the initial breach by USACE and has six years from February 19, 2019 to bring suit in the District Court.

Importantly, USACE has never asserted any legal or administrative basis for delay or non-production of documents. Specifically, no issue exists regarding any statutorily allowable exemption from production, which are: 1) national security information, 2) internal personnel rules and practices, 3) information exempt under other statutes, 4) confidential business information, 5) privileged intra- or inter-agency communications, 6) personal privacy, 7) law enforcement information, 8) financial institutions information, 9) geological information, or 10) a Glomar existence response.

The sole possible assertion of a delay by USACE to date has been that the CENAU FOIA Officer stated on August 9, 2019 that he had been "tied up on other matters", and promised a "return to your request today", August 9, 2019 (see Attachment

#83-87). Although this response is months late, it is consistent with §552, which prohibits any response with more than a ten day extension absent “unusual circumstances”:

“No such notice shall specify a date that would result in an extension for more than ten working days...”

§552(6)(B)(i) FOIA

No “unusual circumstances”, as defined by the FOIA exist, nor have any unusual circumstances been asserted or timely noticed to Requester by USACE in the August 9, 2019 response or since (see Attachment #83-87). In any event, the four months elapsed since August 9, 2019 is a breach of the ten day maximum extension deadline in (6)(B)(i) absent Requestor’s receipt of notice of “unusual circumstances”.

USACE’s FOIA web page (<https://www.usace.army.mil/FOIA>) does identify work load exceptions to the time line for production. Specifically, under “Procedures, Rules and Regulations Pertinent to Processing FOIA Requests/Response Time” the policy is stated:

“Under the FOIA statute, Corps of Engineer FOIA Offices are to respond to a FOIA request within twenty business days. This time period does not begin until the request is perfected, as discussed in the DoD and Army FOIA Regulations. Additionally, subject to the new time limits in the OPEN Government Act of 2007, the time period will not begin until actually received by the FOIA Office that maintains the documents sought. [Paragraph One]

Some FOIA Offices receive hundreds of requests each year. Many of these requests require a detailed review of hundreds or even thousands of pages of documents. Although the Corps of Engineers makes every effort to respond to FOIA requests as quickly as possible, in some cases it simply cannot do so within the specified time period. This may be due either to the size of the request, the location of the documents or to the fact that the Office has a backlog of previously received requests that are awaiting processing. [Paragraph Two]”

All of the requirements in Paragraph One for perfection and receipt by the custodial office were completed in March 2019, nine months ago, as detailed above. Paragraph Two provides for an extended timeline for production if 1) voluminous request, 2) location of documents, and/or 3) backlog of requests, but it still states that policy is production “as quickly as possible”. To date, Requestor has only received the August 9, 2019 email, as sole notice of any extenuating factors that might be applicable, and no production to date.

Please also note that Requester purposefully made six distinct FOIA requests, instead of one large single FOIA request (see Attachments #2-9). USACE disagreed with six separate requests, and, after discussion (see Attachments #17-33), refused to treat the six requests individually, and logged all of the requests as a single FOIA request file. Requester’s purpose in separate requests was knowledge that some groups of documents were readily available in the custody of the Contracting Officer for the Project in a single office in Germany and could be easily produced without delay, while other documents concerning third parties would require notice and would likely be produced later after a notice process. USACE’s choice to make this a single file has unduly delayed production of documents that could have been produced months ago.

Requester ECCI has complied with all statutory requirements pursuant to the Freedom of Information Act, 5 U.S.C. §552, for entitlement to production of documents by USACE in response to its FOIA requests. USACE initially breached its duty to respond to the January 30, 2019 requests within the twenty (20) days required by 5 U.S.C. §552(6)(A)(ii), as acknowledged in writing by the Agency, conferring jurisdiction for Requester to file suit in District Court. However, since that breach, Requester has actively worked with USACE, achieved bilateral clarification and agreement to the validity of the Requests, and has never received a denial of the Requests from USACE to date. Pursuant to the Administrative Procedures Act, in the absence of receipt of a denial, and a failure to produce documents has occurred after an unreasonable period of time, all administrative remedies have been exhausted by Requester, thereby again conferring jurisdiction on Requester to file suit in the District Court for a second time.

USACE Breach of Duty of Good Faith and Fair Dealing and Duty of Due Diligence

As of this date, no evidence of any good faith efforts at compliance has been demonstrated by USACE, much less the required due diligence for the perfected Requests required by FOIA. Requester is a commercial requestor. Requester has committed to an open-ended invoice from USACE for compliance with the Requests. Requestor is entitled, at a minimum, to some reasonable report of the costs incurred to date on Requestor's behalf by USACE in the nine months since perfection. Requestor is a bonded and audited USG Contractor and has duties to timely and accurately report regarding significant financial undertakings such as this significant financial commitment to USACE. USACE's failure to timely produce the documents or even report on the progress of due diligence materially impairs the value of the unlimited cost agreement for ECCI. When ECCI perfected the Requests by making the financial undertaking, USACE also undertook an implied duty of good faith and due diligence. USACE has now breached that duty to Requestor, and breached the implied duty of good faith and fair dealing.

Documents Requested Readily Available to USACE

Requester notes that the Contracting Officer for USACE and his staff for the Project, who are the custodians of the documents requested, have been actively engaging in review of many of the requested documents in close out of the Project, based on the substance and text of REA denials and a draft CPARS submission recently received by Requester from USACE. This illustrates that many of the documents not produced are readily available for production in the hands of the custodians.

Separate from the FOIA requests, agency USACE is a contracting party with Requestor with regard to the Project. USACE is aware that Requestor seeks the documents by FOIA Requests for investigation and timely preparation of Requests for Equitable Adjustments (REAs) for the Project. USACE is aware and benefits from the delay and continued non-compliance that impairs Requestor's efforts at REA preparation and causes continuing financial harm to Requestor by delaying and denying access to the document production. Anticipated REAs against USACE were actively identified and discussed during the Clarification and Perfection conference in March 2019.

Appeal of Constructive Denial by USACE

In the spirit of cooperation and so as to exhaust all administrative remedies pursuant to 5 U.S.C. §552(6)(c)(i), Requester again hereby demands, within ten days, production of documents, or in the alternative, that USACE provide written notice and explanation of any "exceptional circumstances", agency "due diligence" efforts to date, any agency assertion of "exemption" or "unusual circumstances" for compliance, any "response time extenuating circumstances" and identification of any administrative remedy which Requester has failed to exhaust by this letter pursuant to the APA, or else consider this letter an appeal under the APA of a constructive denial of timely perfected requests made to USACE after a positive determination. Requester ECCI reserves and does not waive the jurisdiction conferred by the two prior incidents of USACE breach of the FOIA without denial. ECCI is entitled to bring a cause of action in District Court without administrative appeal where no denial was ever issued by USACE which would require appeal pursuant to the APA.

Attachments

Please note that all correspondence referred to above is attached in a single chronological order PDF file (Ninety Five Pages).

Very truly yours,

James P. Laurie III

Digitally signed by James P. Laurie III
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Counsel, email=jlaurie@ecc.net, c=US
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Correspondence file attached (Ninety Five Pages)

cc: Manjiv Vohra, ECC, MVohra@ecc.net
Bud West III, ECC, BWest@ecc.net
Glenn Davidson, ECC, GDavidson@ecc.net

James P. Laurie III

From: James P. Laurie III
Sent: Wednesday, January 30, 2019 11:40 AM
To: FOIA-EUD@USACE.ARMY.MIL
Cc: Manjiv S. Vohra; Bud West III (BWest@ecc.net); Glenn E. Davidson
Subject: Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany
Attachments: FOIA Request CENAU 1 30 2019.pdf

FOIA-EUD Officer:

Please see attached correspondence for Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

Very truly yours,

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January 30, 2019

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Fax: 011-49-611-816-2712

Re: Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

Dear FOIA-EUD Officer:

I am Corporate Counsel for ECC International LLC ("ECCI"). As directed by the FOIA procedures for this agency, these are Freedom of Information Act ("FOIA") requests made on behalf of ECCI under the Freedom of Information Act, 5 U.S.C. §552. ECCI hereby requests a copy of each of the following documents regarding the Consolidated Intelligence Center (CIC) Project currently under construction by USACE Europe Division, CENAU, at USAG Clay Kaserne, Wiesbaden, Germany, Contract No. W912GB-13-C-0003. All of the documents requested are expected to be in the custody of the Contracting Officer for the Project, LTC USARMY CENAU Christian H. Solinsky, PCO, Special Programs Branch Chief, CENAU-Contracting, Department of the Army, US Army Corps of Engineers, Europe District, CMR 410, Box 7, APO, AE 09049, DSN 314-570-2281 CIV 0611-9744-2281, Mobile 0152-0156-9623, Christian.H.Solinsky@usace.army.mil; Project COR Mr. Austin Eidson, (0611) 9744-2925, Austin.W.Eidson@usace.army.mil; Project ACOR Aaron Edmonson, aaron.g.edmonson@usace.army.mil.

FOUO Designation

Please note that Contract No. W912GB-13-C-0003 is not a classified contract and project, but is a "For Official Use Only" (FOUO) designated contract. Per Executive Order No. 13556 on Controlled Unclassified Information (CUI), "the mere fact that information is designated as CUI shall not have a bearing on determinations pursuant to any law requiring the disclosure of information or permitting disclosure as a matter of discretion" which includes the Freedom of Information Act. The Joint Guidance Memo dated July 3, 2014 from the Information Security Oversight Office (ISOO) and the Office of Information Policy (OIP) at the Department of Justice on Confidential Unclassified Information (CUI) states that "CUI markings and designations should not be associated with or paired to FOIA exemptions and should not be used as a basis for applying a FOIA exemption" and that "[n]either CUI markings nor any other markings are dispositive of a FOIA reviewer's disclosure determination." As a result, no documents in this request should be withheld or redacted unless expressly marked with a "classified" designation.

The Documents Requests are as follows:

Contract Documents*

1) Architecture, Engineering & Design Contract(s) between USACE and Jacobs/BauerConsult, including the original contract documents and all addendums, all modifications, and all proposed

modifications by any party for the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany;

2) Contract(s) between USACE & Data Center Solutions Corp. (DCS) and Critical CxE for the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request;

3) Contract(s) between USACE/Unknown Contractor(s) who will furnish to the Project following completion by ECC International LLC, for installation and equipment supply for end user of electrical systems on the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

Communications*

4) All correspondence and communications and meeting records, including emails, for the Architecture, Engineering & Design Contract(s) between USACE and Jacobs/BauerConsult, including the original contract documents and all addendums, all modifications, and all proposed modifications by any party for the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany;

5) All correspondence and communications and meeting records, including emails, for the Contract(s) between USACE and Data Center Solutions Corp. (DCS) and Critical CxE for the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request;

6) All correspondence and communications and meeting records, including emails, for the Contract(s) between USACE/Unknown Contractor(s) who will furnish to the Project following completion by ECC International LLC, for installation and equipment supply for end user of electrical systems on the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

**Identification of Persons and Entities*

To assist you with these requests, please refer to the attached "List Identification of Names & Email Accounts for ECCI Requests" (Five Pages) (**ATTACHMENT ONE**), which is a list by entity, then by alpha, of individuals confirmed to be associated with the Project from whom there will be responsive documents, including correspondence, communications, and emails in the custody of the Agency. If it is known that an individual used more than one email, both are listed. All known addresses and contact information are provided; if an individual is listed twice, it is because their office has changed. In the case of documents involving the Agency Attorney (identified on the List), please note that we are not seeking any attorney-client privileged or attorney work product documents; only those documents that are not privileged. Corporate entity and individual names are believed to be correct, but if determined incorrect, the same documents regarding any such corporate entity or individuals, named or unnamed, are included in these requests.

Simple and Complex Requests

We anticipate that compliance with these document requests are simple, but issues may arise which are complex in nature. Interim responses to clarify our requests are expected and appreciated, including addressing redactions. We are not requesting, nor do we expect to receive, any information that would not be available to any taxpayer requestor, or either: 1) bidders under Contract W912GB-13-C-0003, and 2) all of those documents that can be disclosed to the FOUO designated Contractor under Contract W912GB-13-C-0003 for the Project (who is the Requestor here). The unknown Contractors identified in Requests Nos. 3 and 6 are possibly classified in some instances, and we are not seeking classified information, but would expect to receive documents with classified information redacted.

January 30, 2019

Segregating Requests to Speed Production Requested

If one or more of the numbered requests above are not simple, and are deemed complex or require perfection by the requester, and can be expected to delay compliance with the whole, please advise and consider each numbered request a separate FOIA request, and respond to each numbered request separately for administrative purposes, so as to avoid any such delay in response and production.

Format of Electronic Production Preferred

Pursuant to 5 U.S.C. §552(a)(3)(B), please provide all documents in electronic format (PDF, OCR scanned preferred), and, if you request, we shall provide an FTP link for upload, or we can use an electronic reading room (FTP) provided by your agency for download.

Payment of Costs by Requester

Please note that ECC International LLC (ECCI) is a United States of America (USA) limited liability company and taxpayer, and is a commercial use requester in this context, and is willing to pay the appropriate fees for this request up to a maximum of \$1,000.00 per numbered request. If you estimate that the fees will exceed this limit, please inform me first with a written estimate for each request, including a determination regarding simple or complex, before proceeding.

Responses

Please see my direct contact information below to discuss any aspect of these requests. Responses and communications, including letters, are preferred received by email to jlaurie@ecc.net. Please confirm receipt, thanks.

Very truly yours,

James P. Laurie III

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Attachment: List Identification of Names & Email Accounts for ECCI Requests (Five Pages)

cc: Manjiv Vohra, ECC, MVohra@ecc.net
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List Identification of Names & Email Accounts for ECCI FOIA Requests

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James P. Laurie III

From: Manjiv S. Vohra
Sent: Wednesday, January 30, 2019 11:48 AM
To: James P. Laurie III
Subject: RE: Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

Very nice!

From: James P. Laurie III
Sent: Wednesday, January 30, 2019 8:40 AM
To: FOIA-EUD@USACE.ARMY.MIL
Cc: Manjiv S. Vohra <MVohra@ecc.net>; Bud West III <BWest@ecc.net>; Glenn E. Davidson <GDavidson@ecc.net>
Subject: Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

FOIA-EUD Officer:

Please see attached correspondence for Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9267 skype
415.319.0579 mobile
jlaurie@ecc.net



*Vision
Integrity
Results*

James P. Laurie III

From: Glenn E. Davidson
Sent: Thursday, January 31, 2019 1:11 AM
To: James P. Laurie III
Subject: RE: Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

James, I would like to have further discussion on the item when you are here next week.

[Glenn Davidson - Senior Project Manager ECCI](#)
gdavidson@ecc.net | skype: ecc.glenn.davidson
+1 650 722 0860 (USA) | +49 151 657 63 628 (Germany)

“ PLAN YOUR WORK – WORK YOUR PLAN”



From: James P. Laurie III
Sent: Wednesday, January 30, 2019 5:40 PM
To: FOIA-EUD@USACE.ARMY.MIL
Cc: Manjiv S. Vohra <MVohra@ecc.net>; Bud West III <BWest@ecc.net>; Glenn E. Davidson <GDavidson@ecc.net>
Subject: Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

FOIA-EUD Officer:

Please see attached correspondence for Six FOIA Requests for CENAU-Contracting, USACE Europe Division Regarding the Consolidated Intelligence Center (CIC) Project at USAG Klay Kaserne, Wiesbaden, Germany

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9267 skype
415.319.0579 mobile
jlaurie@ecc.net



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From: [James P. Laurie III](#)
To: FOIA-EUD@USACE.ARMY.MIL
Subject: Request for Confirmation of Receipt of 1/30/2019 FOIA Request
Date: Wednesday, February 20, 2019 4:55:00 AM
Attachments: [FOIA Request CENAU 1 30 2019.pdf](#)

Dear FOIA Officer:

Please confirm your receipt of this FOIA request sent on January 30, 2019, thanks.

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9267 skype
415.319.0579 mobile
jlaurie@ecc.net



*Vision
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Results*

From: [Howard, Brett R CIV USARMY CENAU \(USA\)](#)
To: [James P. Laurie III](#)
Subject: RE: Request for Confirmation of Receipt of 1/30/2019 FOIA Request
Date: Friday, February 22, 2019 9:07:58 AM

Mr. Laurie,

I apologize but we did not receive your FOIA Request until this email. Thank you for resending. We are processing and will communicate with you shortly.

Brett R. Howard
Assistant Command Counsel
US Army Corps of Engineers, Europe District

Comm: +49-611-9744-2719
From US: 011-49-611-9744-2719
DSN: 314-570-2719
Email to: Brett.R.Howard@usace.army.mil

-----Original Message-----

From: James P. Laurie III [<mailto:JLaurie@ecc.net>]
Sent: Wednesday, February 20, 2019 10:55 AM
To: FOIA-EUD <FOIA-EUD@usace.army.mil>
Subject: [Non-DoD Source] Request for Confirmation of Receipt of 1/30/2019 FOIA Request

Dear FOIA Officer:

Please confirm your receipt of this FOIA request sent on January 30, 2019, thanks.

Very truly yours,

James P Laurie III

Corporate Counsel

Environmental Chemical Corporation

1240 Bayshore Highway

Burlingame, CA 94010

650.347.1555 office

415.742.9267 skype

415.319.0579 mobile

jlaurie@ecc.net <<mailto:jlaurie@ecc.net>>

From: [James P. Laurie III](#)
To: [Howard, Brett R CIV USARMY CENAU \(USA\)](#)
Subject: RE: Request for Confirmation of Receipt of 1/30/2019 FOIA Request
Date: Friday, February 22, 2019 9:32:00 AM

Mr. Howard:

Thanks! I figured you would have questions, and thought it unusual not to have heard from y'all by now.

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9267 skype
415.319.0579 mobile
jlaurie@ecc net

-----Original Message-----

From: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Sent: Friday, February 22, 2019 3:08 PM
To: James P. Laurie III <JLaurie@ecc.net>
Subject: RE: Request for Confirmation of Receipt of 1/30/2019 FOIA Request

Mr. Laurie,

I apologize but we did not receive your FOIA Request until this email. Thank you for resending. We are processing and will communicate with you shortly.

Brett R. Howard
Assistant Command Counsel
US Army Corps of Engineers, Europe District

Comm: +49-611-9744-2719
From US: 011-49-611-9744-2719
DSN: 314-570-2719
Email to: Brett.R.Howard@usace.army.mil

-----Original Message-----

From: James P. Laurie III [<mailto:JLaurie@ecc.net>]
Sent: Wednesday, February 20, 2019 10:55 AM
To: FOIA-EUD <FOIA-EUD@usace.army.mil>
Subject: [Non-DoD Source] Request for Confirmation of Receipt of 1/30/2019 FOIA Request

Dear FOIA Officer:

Please confirm your receipt of this FOIA request sent on January 30, 2019, thanks.

Very truly yours,

James P Laurie III

Corporate Counsel

Environmental Chemical Corporation

1240 Bayshore Highway

Burlingame, CA 94010

650.347.1555 office

415.742.9267 skype

415.319.0579 mobile

jlaurie@ecc net <<mailto:jlaurie@ecc.net>>

James P. Laurie III

From: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Sent: Monday, March 11, 2019 11:03 AM
To: James P. Laurie III
Cc: Polk, Denise T CIV USARMY CENAU (US)
Subject: Government Response to FOIA 2019-002
Attachments: 2019.03.11 FOIA No. 2019-002 Agency Response.pdf

Mr. Laurie,

Please see attached correspondence.

Sincerely,

Brett R. Howard
Assistant Command Counsel
US Army Corps of Engineers, Europe District

Comm: +49-611-9744-2719
From US: 011-49-611-9744-2719
DSN: 314-570-2719
Email to: Brett.R.Howard@usace.army.mil

11 March 2019

CENAU-OC

Via Electronic Mail (jlaurie@ecc.net)

Mr. James P. Laurie III
1240 Bayshore Highway
Burlingame, CA 94010

Re: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG
Clay Kaserne, Wiesbaden, Germany

Dear Mr. Laurie,

I am in receipt of your Freedom of Information Act (FOIA) request. I want to emphasize that it is the policy of the Department of the Army to strictly comply with the FOIA. In so doing, the Department provides the public with a maximum amount of accurate and timely information concerning its activities consistent always with the legitimate public and private interests of the American people.

In review of this FOIA request we have identified certain requests that do not meet the minimum requirements of the FOIA. This email is to apprise you of the defect(s) and assist you in perfecting the requests. I direct your attention to excerpts from the statute underlying the Freedom of Information Act:

(1)... The following guidelines are provided to deal with generalized requests and are based on the principle of reasonable effort. Descriptive information about a record may be divided into two broad categories.

(i) Category I is file-related and includes information such as type of record (for example, memorandum), title, index citation, subject area, date the record was created, and originator.

(ii) Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

(2) Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized, non-random search based on the [Agency] activity's filing arrangements and existing retrieval systems, or unless the record contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search.

32 CFR § 701.8(c)(1)-(2).

The requests below require additional information and/or your attention to meet the minimum FOIA requirements:

Based on my review of the request, my understanding is that you are seeking the following records which relate to ECC International LLC (ECCI) and its work for the US Army Corps of Engineers (USACE) under Contract No. W912GB-13-C-0003 (contract), the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany:

Contract Documents

- 1) Architecture, Engineering & Design Contract(s) between USACE and Jacobs/Bauer Consult, including the original contract documents and all addendums, all modifications, and all proposed modifications by any party for the CIC.

Response: As required by the provision 32 CFR 286.23(h), NAU must notify the Contractor, Jacobs/Baur Consult, of this FOIA request and give it a reasonable amount of time to raise any objections it may have to the release of the requested records. We are coordinating with this firm and requesting that it forward to us their response to the disclosure of the requested information. We will then carefully consider their response with the requirements for release under the law and respond to your request. Your patience is appreciated.

Defect regarding “all proposed modifications by any party for the CIC” portion of request: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. *32 CFR § 701.8(c)(1)*. This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested.

- 2) Contract(s) between USACE & Data Center Solutions Corp. (DCS) and Critical CxE for the CIC, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

Response: As required by the provision 32 CFR 286.23(h), NAU must notify the Contractors, Data Center Solutions Corp. (DCS) and Critical CxE, of this FOIA request and give them a reasonable amount of time to raise any objections they may have to the release of the requested records. We are coordinating with these firms and requesting that they forward to us their response to the disclosure of the requested information. We will then carefully consider their response with the requirements for release under the law and respond to your request. Your patience is appreciated.

Defect regarding “all proposed modifications” portion of request: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. *32 CFR § 701.8(c)(1)*. This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested.

- 3) Contract(s) between USACE/Unknown Contractors(s) who will furnish to the Project following the completion by ECCI, for installation and equipment supply for end user of

electrical systems on the CIC, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. *32 CFR § 701.8(c)(1)*. This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested.

Communications

4) All correspondence and communications and meeting records, including emails, for Architecture, Engineering & Design Contract(s) between USACE and Jacobs BauerConsult, including the original contract documents and all addendums, all modifications, and all proposed modifications by any party for CIC.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. *32 CFR § 701.8(c)(1)*. This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested.

5) All correspondence and communications and meeting records, including emails, for the Contract(s) between USACE and DCS and Critical CxE for the CIC, including the original contract documents and addendums, all modifications and addendums, all modifications, and all proposed modifications through the date of this request.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. *32 CFR § 701.8(c)(1)*. This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested.

6) All correspondence and communications and meeting records, including emails, for the Contract(s) between USACE/Unknown Contractor(s) who will furnish to the Project following completion by ECCL, for installation and equipment supply for end user of electrical systems on the CIC, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. *32 CFR § 701.8(c)(1)*. This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested.

Payment of Costs

Additionally, an issue that needs clarification is your statement pertaining to fees. Your request indicates you will pay “the appropriate fees for this request up to a maximum of \$1,000.” However, as a commercial requester (one who is seeking the records on behalf of a client who would use same for commercial benefit) you would need to agree to pay all fees before we can begin processing. All fees might include the time it takes to gather all responsive material, reproduce (*e.g.* scan and/or copy/scan any records not already maintained in electronic format), all fees related to the review and potential redaction of the requested records, the cost of any CDs or DVDs we use to transmit the responsive material to you, and in some cases we are authorized to bill for any out of the ordinary fees such as microfilm duplication, media reproduction, etc.

For more details about what fees are billable to a commercial requester, please see *32 CFR § 518.19*. Therefore, we would need your written acknowledgment of your firm’s willingness to pay all fees which may be associated with responding to this request before we can proceed. The location and review of the requested documents is expected to be time-consuming and labor-intensive. The list of identified names contains 33 US Government personnel. Of those listed, several are located in districts other than Europe district and will require coordination with those separate offices. Further, several of the employees are employed by Agencies and/or Departments that are not part of USACE. For these employees, further coordination will be required. It is also unclear why persons are listed for the firms Jacobs, DCS and Critical CxE. These are non-governmental entities and USACE has no requirement to contact these firms/persons or attempt to locate documents that may be under their control. Finally it is noted that emails have been requested from USACE attorney Jay Aldridge. Although virtually all of these communications are presumptively privileged, the locating, review and redaction where necessary is expected to be exceptionally labor-intensive.

Lastly, your request implies that there are 6 FOIA requests. Please note, our office views this request as a single FOIA to which we have assigned its internal case number identified as FOIA 2019-002. Please be advised that I will keep your request in a pending status for the next 10 days. However, if I do not hear back from you about this request for clarification during that time, I will close the file and take no further action.

Thank you for your attention to this matter.

Sincerely,

Brett R. Howard
Assistant Counsel
Europe District
U.S. Army Corps of Engineers

James P. Laurie III

From: James P. Laurie III
Sent: Wednesday, March 20, 2019 6:27 PM
To: Howard, Brett R CIV USARMY CENAU (USA)
Cc: Bud West III (BWest@ecc.net); Glenn E. Davidson; Manjiv S. Vohra
Subject: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany
Attachments: FOIA Clarification 3 21 2019.pdf

Mr. Howard:

Attached please find response letter dated March 21, 2019 to your letter dated March 11, 2019, regarding FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany.

Very truly yours

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9264 skype
415.319.0579 mobile
jlaurie@ecc.net

-----Original Message-----

From: Howard, Brett R CIV USARMY CENAU (USA) [mailto:Brett.R.Howard@usace.army.mil]
Sent: Friday, February 22, 2019 9:08 AM
To: James P. Laurie III <JLaurie@ecc.net>
Subject: RE: Request for Confirmation of Receipt of 1/30/2019 FOIA Request

Mr. Laurie,

I apologize but we did not receive your FOIA Request until this email. Thank you for resending. We are processing and will communicate with you shortly.

Brett R. Howard
Assistant Command Counsel
US Army Corps of Engineers, Europe District

Comm: +49-611-9744-2719
From US: 011-49-611-9744-2719
DSN: 314-570-2719
Email to: Brett.R.Howard@usace.army.mil

-----Original Message-----

From: James P. Laurie III [mailto:JLaurie@ecc.net]

Sent: Wednesday, February 20, 2019 10:55 AM

To: FOIA-EUD <FOIA-EUD@usace.army.mil>

Subject: [Non-DoD Source] Request for Confirmation of Receipt of 1/30/2019 FOIA Request

Dear FOIA Officer:

Please confirm your receipt of this FOIA request sent on January 30, 2019, thanks.

Very truly yours,

James P Laurie III

Corporate Counsel

Environmental Chemical Corporation

1240 Bayshore Highway

Burlingame, CA 94010

650.347.1555 office

415.742.9267 skype

415.319.0579 mobile

jlaurie@ecc.net <mailto:jlaurie@ecc.net>

2019.COR.0011



International

Corporate Office

1240 Bayshore Highway
Burlingame, CA 94010

Phone: (650) 347-1555
Fax: (650) 347-8789

www.ecc.net

BY EMAIL ONLY Brett.R.Howard@usace.army.mil

March 21, 2019

Brett R. Howard
Assistant Command Counsel
Department of the Army
U.S. Army Corps of Engineers, Europe District
CMR 410, BOX 199
APO AE 09049
Phone: 011-49-611-9744-2711
Fax: 011-49-611-816-2712

Re: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay
Kaserne, Wiesbaden, Germany
Requester: ECC International LLC ("ECCI")
Date of Request: January 30, 2019

Dear Mr. Howard:

Thank you for your FOIA acknowledgement and response by email previously on February 22, 2019 to the FOIA request emailed on January 30, 2019, and my follow up email on February 20, 2019, when no response was received.

I am responding here to your letter dated March 11, 2019 seeking clarification for the FOIA requests noted above, within the ten day time designated by you. I have abbreviated the items for response:

"Based on my review of the request, my understanding is that you are seeking the following records which relate to ECC International LLC (ECCI) and its work for the US Army Corps of Engineers (USACE) under Contract No. W912GB-13-C-0003 (contract), the Consolidated Intelligence Center Project (CIC) at USAG Clay Kaserne, Wiesbaden, Germany"

ECCI Response: Correct.

"As required by the provision 32 CFR 286.23(h), NAU must notify the Contractor, Jacobs/Baur Consult..."

ECCI Response: Understood; please note however that no request is made for documents from third parties, only those documents in the custody of the USG. Copies of your correspondence would be appreciated.

"1) ...Defect regarding "all proposed modifications by any party for the CIC" portion of request: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. 32 CFR § 701.8(c)(1). This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested."

ECCI Response: The component of the request identified as defective seeks any proposed contract modification of the original design contract(s) prepared by USACE and tendered to Jacobs/Baurconsult for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by Jacobs/Baurconsult, but which Jacobs/Baurconsult never executed bilaterally.

"2) ...As required by the provision 32 CFR 286.23(h), NAU must notify the Contractors, Data Center Solutions Corp. (DCS) and Critical CxE..."

ECCI Response: Understood; please note however that no request is made for documents from third parties, only those documents in the custody of the USG. Copies of your correspondence would be appreciated.

"Defect regarding "all proposed modifications" portion of request: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. 32 CFR § 701.8(c)(1). This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested."

ECCI Response: The component of the request identified as defective seeks any proposed contract modification document of the contract(s) prepared by USACE and tendered to Data Center Solutions Corp. (DCS) for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by the DCS, but which DCS never executed bilaterally.

The component of the request identified as defective seeks any proposed contract modification document of the contract(s) prepared by USACE and tendered to Critical CxE for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by the Contractor Critical CxE, but which Critical CxE never executed bilaterally.

"3) Contract(s) between USACE/Unknown Contractors(s) who will furnish to the Project following the completion by ECCI, for installation and equipment supply for end user of electrical systems on the CIC, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. 32 CFR § 701.8(c)(1). This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested."

ECCI Response: Documents sought are readily identifiable as any contract entered into with USACE to perform work on the CIC Project following completion of work by ECCI and any Request for Proposals prepared by USACE to perform work on the CIC Project following completion of work by ECCI.

"4) All correspondence and communications and meeting records, including emails, for Architecture, Engineering & Design Contract(s) between USACE and Jacobs BauerConsult, including the original contract documents and all addendums, all modifications, and all proposed modifications by any party for CIC.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. 32 CFR § 701.8(c)(1). This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested."

ECCI Response: Documents sought are:

- 1) Letters, emails, and faxes between USACE and Jacobs/Baurconsult regarding the contract(s) for design and construction of the CIC Project.
- 2) Meeting Minutes between USACE and Jacobs/Baurconsult regarding the contract(s) for design and construction of the CIC Project.
- 3) Contract(s) between USACE and Jacobs/Baurconsult for design and construction of the CIC Project.
- 4) Contract(s) Modification(s) between USACE and Jacobs/Baurconsult for design and construction of the CIC Project.
- 5) Any proposed contract modification of the original design contract(s) prepared by USACE and tendered to Jacobs/Baurconsult for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by the Contractor (Jacobs/Baurconsult), but which Jacobs/Baurconsult never executed bilaterally.

"5) All correspondence and communications and meeting records, including emails, for the Contract(s) between USACE and DCS and Critical CxE for the CIC, including the original contract documents and addendums, all modifications and addendums, all modifications, and all proposed modifications through the date of this request.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. 32 CFR § 701.8(c)(1). This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested."

ECCI Response: Documents sought are:

- 1) Letters, emails, and faxes between USACE and DCS regarding the contract(s) for the CIC Project.
- 2) Meeting Minutes between USACE and DCS regarding the contract(s) for the CIC Project.
- 3) Contract(s) between USACE and DCS for the CIC Project.
- 4) Contract(s) Modification(s) between USACE and DCS for the CIC Project.
- 5) Any proposed contract modification of the original design contract(s) prepared by USACE and tendered to DCS for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by DCS, but which DCS never executed bilaterally.
- 6) Letters, emails, and faxes between USACE and Critical CxE regarding the contract(s) for the CIC Project.
- 7) Meeting Minutes between USACE and Critical CxE regarding the contract(s) for the CIC Project.
- 8) Contract(s) between USACE and Critical CxE for the CIC Project.
- 9) Contract(s) Modification(s) between USACE and Critical CxE for the CIC Project.
- 10) Any proposed contract modification of the original design contract(s) prepared by USACE and tendered to Critical CxE for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by Critical CxE, but which Critical CxE never executed bilaterally.

"6) All correspondence and communications and meeting records, including emails, for the Contract(s) between USACE/Unknown Contractor(s) who will furnish to the Project following completion by ECCI, for installation and equipment supply for end user of electrical systems on the CIC, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

Defect: The FOIA requester is responsible for describing the record he/she seeks so that a knowledgeable official of the activity can locate the record with a reasonable amount of effort. In order to assist the Agency in conducting more timely searches, a requester should endeavor to provide as much identifying information as possible. 32 CFR § 701.8(c)(1). This request does not reasonably describe the requested record. It is requested that you provide more specific information and/or description in order to identify the record requested."

ECCI Response: Documents sought are readily identifiable as any contract entered into with USACE to perform work on the CIC Project following completion of work by ECCI and any Request for Proposals prepared by USACE

to perform work on the CIC Project following completion of work by ECCI. Regarding such contract or requests for proposal(s) the documents sought are:

- 1) Letters, emails, and faxes between USACE and Contractor(s) regarding the contract(s) for the CIC Project.
- 2) Meeting Minutes between USACE and Contractor(s) regarding the contract(s) for the CIC Project.
- 3) Contract(s) between USACE and Contractor(s) for the CIC Project.
- 4) Contract(s) Modification(s) between USACE and Contractor(s) for the CIC Project.
- 5) Any proposed contract modification of the original design contract(s) prepared by USACE and tendered to Contractor(s) for acceptance from USACE. This would typically consist of Form SF-30 with requirement checked that required bilateral approval and execution by Contractor(s), but which Contractor(s) never executed bilaterally.

“Payment of Costs

Additionally, an issue that needs clarification is your statement pertaining to fees. Your request indicates you will pay “the appropriate fees for this request up to a maximum of \$1,000.” However, as a commercial requester (one who is seeking the records on behalf of a client who would use same for commercial benefit) you would need to agree to pay all fees before we can begin processing. All fees might include the time it takes to gather all responsive material, reproduce (e.g. scan and/or copy/scan any records not already maintained in electronic format), all fees related to the review and potential redaction of the requested records, the cost of any CDs or DVDs we use to transmit the responsive material to you, and in some cases we are authorized to bill for any out of the ordinary fees such as microfilm duplication, media reproduction, etc. For more details about what fees are billable to a commercial requester, please see 32 CFR § 518.19. Therefore, we would need your written acknowledgment of your firm’s willingness to pay all fees which may be associated with responding to this request before we can proceed.”

ECCI Response: ECCI agrees to pay the fees, but requests before proceeding that USG provide 1) an evaluation of the complexity, 2) timeline by the USG, 3) statement whether the fees are expected to exceed the initial commitment by ECCI of \$1000 per request (6 requests).

“Further, several of the employees are employed by Agencies and/or Departments that are not part of USACE. For these employees, further coordination will be required”

ECCI Response: Please identify all such employees. Are they no longer with USACE and now with a different agency? Based on your response, we may choose to exclude such persons from the request. Please advise.

“It is also unclear why persons are listed for the firms Jacobs, DCS and Critical CxE. These are non-governmental entities and USACE has no requirement to contact these firms/persons or attempt to locate documents that may be under their control.”

ECCI Response: The names for personnel from firms Jacobs, DCS and Critical CxE are identified for your use as search terms and to aid in requests from the FOIA Office to a knowledgeable official for the CIC project. ECCI has not requested USG to provide the documents of those firms, only USG’s documents relating to those firms.

“Finally it is noted that emails have been requested from USACE attorney Jay Aldridge. Although virtually all of these communications are presumptively privileged, the locating, review and redaction where necessary is expected to be exceptionally labor-intensive.”

ECCI Response: As noted in the initial FOIA requests dated January 30, 2019, ECCI has **NOT** requested any attorney client privileged documents, and has expressly stated this in its FOIA requests:

“Please note that we are not seeking any attorney-client privileged or attorney work product documents; only those documents that are not privileged.”

March 21, 2019

ECCI has identified the USACE counsel for the CIC Project for your use in search terms to readily and more easily identify and exclude all attorney client privileged documents.

“Lastly, your request implies that there are 6 FOIA requests. Please note, our office views this request as a single FOIA to which we have assigned its internal case number identified as FOIA 2019-002.”

ECCI Response: We reserve the right to request that the six requests be treated as individual FOIA requests, once we receive your designation of whether the requests are simple or complex. We assume that following your receipt and review of this clarification, that you will be able to provide such a designation. If any of the six requests are not simple, and are deemed complex or require perfection by the requester, and can be expected to delay compliance with the whole, please advise and consider each numbered request a separate FOIA request, and respond to each numbered request separately for administrative purposes, so as to avoid any delay in response and production for the simple requests. This is a reasonable interpretation of ECCI’s requests, given the express distinction of the six requests in our initial FOIA Request letter dated January 30, 2019.

Please advise if any further action is required by ECCI for perfection of these requests. Thanks for your work on this.

Very truly yours,

James P. Laurie III
Corporate Counsel
ECC International LLC
jlaurie@ecc.net
415.319.0579 mobile
415.742.9267 skype

cc: Manjiv Vohra, ECC, MVohra@ecc.net
Bud West III, ECC, BWest@ecc.net
Glenn Davidson, ECC, GDavidson@ecc.net

James P. Laurie III

From: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Sent: Tuesday, April 2, 2019 10:36 AM
To: James P. Laurie III
Subject: RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Mr. Laurie,

I'm not sure you are seeing the distinction between FOIA and discovery. While I understand your requests, these are entirely too broad for a FOIA request. Your clarification does not help to properly identify the specific documents. For example- your request No. 3:

3) Contract(s) between USACE/Unknown Contractors(s) who will furnish to the Project following the completion by ECCL, for installation and equipment supply for end user of electrical systems on the CIC, including the original contract documents and addendums, all modifications, and all proposed modifications through the date of this request.

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Readily identifiable by whom? Just stating these documents "are readily identifiable" is not identifying them.

There are many other issues that are far too broad that we need to discuss. Are you available to have a call regarding your attempt to provide additional clarification on your FOIA? I am available this week- please let me know.

Sincerely,

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DSN: 314-570-2719
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Very truly yours

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Mr Howard:

I am on East Coast in Raleigh, NC, 5 hours, 6 hours diff if you had time change. How about 9 or 10 EDT?

Very truly yours,

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Let's do 9 EDT if that works. I will call you at the 650 number below?

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Sent: Thursday, April 4, 2019 2:59 PM
To: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Subject: [Non-DoD Source] RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Mr Howard:

I am on East Coast in Raleigh, NC, 5 hours, 6 hours diff if you had time change. How about 9 or 10 EDT?

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9267 skype
415.319.0579 mobile
jlaurie@ecc.net

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Subject: RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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Subject: RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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ECCI Response: Documents sought are readily identifiable as any contract entered into with USACE to perform work on the CIC Project following completion of work by ECCI and any Request for Proposals prepared by USACE to perform work on the CIC Project following completion of work by ECCI.

Readily identifiable by whom? Just stating these documents "are readily identifiable" is not identifying them.

There are many other issues that are far too broad that we need to discuss. Are you available to have a call regarding your attempt to provide additional clarification on your FOIA? I am available this week- please let me know.

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Comm: +49-611-9744-2719
From US: 011-49-611-9744-2719
DSN: 314-570-2719
Email to: Brett.R.Howard@usace.army.mil

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Cc: Bud West III <BWest@ecc.net>; Glenn E. Davidson <GDavidson@ecc.net>; Manjiv S. Vohra <MVohra@ecc.net>
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FOIA Correspondence 52 of 95

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> Subject: [Non-DoD Source] FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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James P. Laurie III

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Sent: Friday, April 5, 2019 9:03 AM
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Never rang; let me try you

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> To: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>

> Subject: [Non-DoD Source] RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

>

> Mr. Howard:

>

> Can we arrange call for Friday? Please advise time.

>

> Very truly yours,

>

> James P Laurie III

> Corporate Counsel

> Environmental Chemical Corporation

> 1240 Bayshore Highway

> Burlingame, CA 94010

> 650.347.1555 office

> 415.742.9267 skype

> 415.319.0579 mobile

> jlaurie@ecc.net

>

>

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> Sent: Tuesday, April 2, 2019 10:36 AM

> To: James P. Laurie III <JLaurie@ecc.net>

> Subject: RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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> Comm: +49-611-9744-2719
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James P. Laurie III

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Sent: Friday, April 5, 2019 9:06 AM
To: James P. Laurie III
Subject: RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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Subject: [Non-DoD Source] RE: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Never rang; let me try you

Very truly yours,

James P Laurie III
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James P Laurie III
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FOIA Correspondence 68 of 95

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Subject: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Mr. Howard:

Please advise regarding progress and time line for response to FOIA request as clarified, thanks.

I am in Wiesbaden through July 22, 2019, if a call is easier.

Very truly yours,

James P Laurie III
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*Vision
Integrity
Results*

James P. Laurie III

From: James P. Laurie III
Sent: Tuesday, July 16, 2019 11:13 AM
To: Howard, Brett R CIV USARMY CENAU (USA)
Subject: FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Mr. Howard:

Please advise regarding progress and time line for response to FOIA request as clarified, thanks.

I am in Wiesbaden through July 22, 2019, if a call is easier.

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.742.9267 skype
415.319.0579 mobile
jlaurie@ecc.net



*Vision
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From: James P. Laurie III
Sent: Tuesday, July 2, 2019 11:04 AM
To: Brett.R.Howard@usace.army.mil
Subject: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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Corporate Counsel
Environmental Chemical Corporation

James P. Laurie III

From: James P. Laurie III
Sent: Tuesday, July 30, 2019 11:23 AM
To: Howard, Brett R CIV USARMY CENAU (USA)
Subject: THIRD STATUS REQUEST FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

THIRD STATUS REQUEST

Mr. Howard:

I have not received any response or acknowledgement from you to date for the status of my requests regarding the pending FOIA requests as note below for a month.

Please advise.

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James P. Laurie III

From: James P. Laurie III
Sent: Thursday, August 8, 2019 12:30 PM
To: Howard, Brett R CIV USARMY CENAU (USA)
Cc: FOIA-EUD@USACE.ARMY.MIL
Subject: RE: FOURTH STATUS REQUEST FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

FOURTH STATUS REQUEST

Mr. Howard:

I have not received any response or acknowledgement from you to date for the status of pending FOIA requests for five weeks. Please advise.

Very truly yours,

James P. Laurie III
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James P. Laurie III

From: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Sent: Friday, August 9, 2019 1:17 AM
To: James P. Laurie III
Subject: RE: [Non-DoD Source] RE: FOURTH STATUS REQUEST FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Mr. Laurie,

I am receiving your letters. Have been tied up on other matters. Will return to your request today. Sorry for the delay.

Brett

-----Original Message-----

From: James P. Laurie III [mailto:JLaurie@ecc.net]
Sent: Thursday, August 8, 2019 6:30 PM
To: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Cc: FOIA-EUD <FOIA-EUD@usace.army.mil>
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jlaurie@ecc.net <mailto:jlaurie@ecc.net>

James P. Laurie III

From: James P. Laurie III
Sent: Friday, August 9, 2019 9:02 AM
To: Howard, Brett R CIV USARMY CENAU (USA)
Subject: Re: [Non-DoD Source] RE: FOURTH STATUS REQUEST FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Brett

Thank you, I look forward to hearing from you.

Very truly yours,

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From: Howard, Brett R CIV USARMY CENAU (USA)
Sent: Friday, August 9, 2019 1:16 AM
To: James P. Laurie III
Subject: RE: [Non-DoD Source] RE: FOURTH STATUS REQUEST FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Mr. Laurie,

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From: James P. Laurie III [<mailto:JLaurie@ecc.net>]

Sent: Thursday, August 8, 2019 6:30 PM

To: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>

Cc: FOIA-EUD <FOIA-EUD@usace.army.mil>

Subject: [Non-DoD Source] RE: FOURTH STATUS REQUEST FW: FOIA Request

2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay
Kaserne, Wiesbaden, Germany

FOURTH STATUS REQUEST

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To: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>

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THIRD STATUS REQUEST

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jlaurie@ecc.net <<mailto:jlaurie@ecc.net>>

From: James P. Laurie III

Sent: Tuesday, July 2, 2019 11:04 AM

To: Brett.R.Howard@usace.army.mil <<mailto:Brett.R.Howard@usace.army.mil>>

Subject: FOIA Request 2019-002 Consolidated Intelligence Center (CIC)
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jlaurie@ecc.net <<mailto:jlaurie@ecc.net>>

James P. Laurie III

From: James P. Laurie III
Sent: Friday, October 18, 2019 2:01 PM
To: Howard, Brett R CIV USARMY CENAU (USA)
Subject: FIFTH STATUS REQUEST re FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

Brett:

We have received no production to date to respond to these FOIA requests, and I have received no further response or communication from you since your email on August 8, 2019, more than nine weeks ago.

I thought we had gotten off to a good start with clarification after the lost email issue delayed this process by more than a month, but I am concerned that it appears that there is no intention to provide the required production at this point, which only leaves me with one alternative.

I have been making FOIA requests to various USACE offices for more than twenty five years, and have never had a lack of response to date like this.

Please advise, thanks.

Very truly yours,

James P Laurie III
Corporate Counsel
Environmental Chemical Corporation
1240 Bayshore Highway
Burlingame, CA 94010
650.347.1555 office
415.319.0579 mobile
jlaurie@ecc.net



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Integrity
Results*

From: James P. Laurie III <JLaurie@ecc.net>
Sent: Friday, August 9, 2019 9:01 AM
To: Howard, Brett R CIV USARMY CENAU (USA) <Brett.R.Howard@usace.army.mil>
Subject: Re: [Non-DoD Source] RE: FOURTH STATUS REQUEST FW: FOIA Request 2019-002 Consolidated Intelligence Center (CIC) Project at USAG Clay Kaserne, Wiesbaden, Germany

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