



## II. JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).

## III. VENUE

3. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

## IV. PARTIES

4. Plaintiff, Stotter & Associates LLC, is a limited liability corporation that, at all times relevant herein, was formed and is located in Corvallis, Oregon.

5. Defendant United States Department of Justice is a federal agency of the United States, and as such, is subject to FOIA, pursuant to 5 U.S.C. § 552(f).

## V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See* 5 U.S.C. § 552(a)(6)C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

11. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

## **VI. FACTUAL ALLEGATIONS**

13. On or about March 20, 2018, Plaintiff sent a FOIA request to the United States Department of Justice (DOJ), seeking records regarding contracts issued between the

Department of Justice and Advanced Technologies Group.

14. On or about April 12, 2018, Plaintiff sent an email to DOJ requesting information as to the current status of Plaintiff's March 20, 2018 FOIA request, and an estimate when Plaintiff would receive a decision and the responsive records sought by this FOIA record request.

15. On or about April 17, 2018, DOJ sent a notice to Plaintiff, acknowledging Plaintiff's March 20, 2018 request, and assigning it tracking number EMRUFOIA032018-3.

16. On or about April 17, 2018 DOJ sent an email to Plaintiff, as a follow up to an earlier telephone conversation, requesting that Plaintiff reply to this email by re-sending a copy of Plaintiff's March 20, 2018 FOIA request.

17. On or about April 17, 2018 Plaintiff sent an email to DOJ with a copy of Plaintiff's March 20, 18 FOIA request. Plaintiff also informed DOJ in this email that the links to the contracts that were referenced in this FOIA request were no longer working.

18. On or about April 25, 2018 DOJ sent an email to Plaintiff seeking clarification as to how it could accommodate Plaintiff's request.

19. On or about April 27, 2018, Plaintiff sent an email to DOJ narrowing its FOIA request to just three of the contracts previously identified in the March 20, 2018 FOIA request described in paragraph 13 above, and in particular, indicating that it currently sought only copies of the following three contracts between the DOJ and Advanced

Technologies Group: Large Contract DJBP0700NASNT40002, Novation Agreement Contract DJBP0700NASM9M10035, and Update to TRULINCS system contract DJBP0700NASN2P60012.

20. On or about April 27, 2018, DOJ sent a notice to Plaintiff, assigning a new FOIA request number of 2018-04470 for the agency's processing of the three above listed public contracts. DOJ also indicated in this email that because of the complexity of the request, it was exercising a 10 day deadline extension to complete this records request.

21. On or about May 29, 2018, Plaintiff sent an email to DOJ requesting an estimated completion date for receiving a decision, and the records requested for the above referenced FOIA request.

22. On or about May 30, 2018, DOJ sent an email to Plaintiff indicating that a search for records was being conducted by the agency, and that once records were found, that they would need to be processed by the agency. DOJ further indicated that it could not provide an estimate of a completion date.

23. On or about May 30, 2018, Plaintiff sent an email to DOJ stating that DOJ is required to give an estimated completion date under 5 USC 552(a)(7)(B)(ii).

24. On or about May 31, 2018 DOJ sent an email to Plaintiff stating that because of the number of FOIA requests being processed, that the request for contracts can take up to 12 months, and that the estimated completion date for this record request is April of 2019.

25. As of the date of the filing of this action ,Plaintiff has not received any records responsive to its FOIA request referenced above.

## **VII. CLAIMS FOR RELIEF**

26. Plaintiff realleges, as if fully set forth herein, paragraphs 1-25 previously set forth herein.

27. Defendant DOJ has violated FOIA by failing to provide Plaintiff with all non-exempt responsive records for its March 20, 2018 FOIA request, as narrowed and modified on April 27, 2018, and by failing to complete an adequate search which was reasonably calculated to locate all responsive records to this FOIA request.

28. By failing to provide Plaintiff with all non-exempt responsive record to the FOIA request as described in paragraph 27, and by failing to perform an adequate search for responsive records, Defendant DOJ has denied Plaintiff's right to this information as provided by the law under the Freedom of Information Act.

29. Defendant DOJ has violated FOIA by failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff's March 20, 2018 FOIA request, as narrowed and modified on April 27, 2018.

30. By failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff's FOIA request, as described in paragraph 29 above, Defendant DOJ has denied Plaintiff's right to this information as provided by law under the Freedom of Information Act.

31. Unless enjoined by this Court, Defendant DOJ will continue to violate Plaintiff's legal rights to be provided with copies of the records which it has requested in its FOIA request described in paragraph 27 above.

32. Plaintiff is directly and adversely affected and aggrieved by Defendant DOJ's failure to provide responsive records to its FOIA request described above.

33. Plaintiff has been required to obtain the services of attorneys, law clerks, and legal assistants to prosecute this action.

34. Plaintiff is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for Plaintiff, providing the following relief:

1. Declare Defendant United States Department of Justice has violated FOIA by failing to provide Plaintiff with all non-exempt records responsive to its March 20, 2018 FOIA request, as narrowed and modified on April 27, 2018.

2. Declare Defendant United States Department of Justice has violated FOIA by failing to perform an adequate search for records responsive to Plaintiff's March 20, 2018 FOIA request, as narrowed and modified on April 27, 2018.

3. Direct by injunction that Defendant United States Department of Justice perform an adequate search for records responsive to Plaintiff's March 20, 2018 FOIA request, as

narrowed and modified on April 27, 2018. and provide Plaintiff with all non-exempt responsive records to this FOIA request.

4. Grant Plaintiff's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,

5. Provide such other relief as the Court deems just and proper.

DATED: This 26<sup>th</sup> day of June, 2018.

Respectfully submitted,

/s/

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Daniel J. Stotter (WI0015)  
STOTTER & ASSOCIATES LLC  
408 SW Monroe Ave., Ste. M210E  
Corvallis, Oregon 97333  
(541) 738-2601  
dstotter@qwestoffice.net  
**Attorney for Plaintiff**