
From: Hurst, Ben
Sent: Tuesday, July 17, 2018 10:27 AM
To: Routt, Christiane
Cc: Samuels, Crystal; Adkins, Norman; Thompson, Stephen; Hunkins, Garrett W.
Subject: RE: Status of FOIA EPA-HQ-2018-001917

Good morning Ms. Routt,

I'm glad to hear that the agency will not continue to delay processing of this request in an attempt to collect what we believe is a clearly unreasonable fee, especially in light of the agency's continued inability to explain how the estimated fee was calculated.

Unfortunately, we are growing increasingly frustrated with the ongoing delay in processing even aside from the fee issue. We cannot begin to consider narrowing our request until we know which of our terms are creating the large number of hits. Please provide this information as soon as possible, but in any event no later than **Thursday, July 19**.

Regards,

Ben

From: Routt, Christiane [mailto:Routt.Christiane@epa.gov]
Sent: Tuesday, July 10, 2018 10:37 AM
To: Hurst, Ben
Cc: Samuels, Crystal; Adkins, Norman; Thompson, Stephen; Hunkins, Garrett W.
Subject: Re: Status of FOIA EPA-HQ-2018-001917

Hi there Ben,

Apologies for the delay. The holiday and surgery recovery combined has been overwhelming. Nonetheless, the staff are looking to see how they can manage the count by search term and I should know something solid today. Until then, the fee issue is set aside as far as I am concerned - due to the complexity of working the search and narrowing of the request.

Thanks

Christiane Routt
Senior Advisor, OPARM, ORD
202-407-2652 -or- 571-291-5774

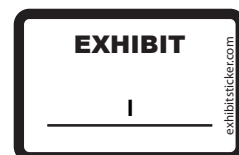
On Jul 10, 2018, at 10:20 AM, Hurst, Ben <BHurst@gravesgarrett.com> wrote:

Ms. Routt,

We regret that we have not heard from you or any of your staff to explain the quite outlandish fee estimate you provided almost three weeks ago. Please contact us immediately.

Regards,

Ben



From: Hurst, Ben
Sent: Tuesday, July 03, 2018 3:18 PM
To: 'Routt, Christiane'
Cc: Samuels, Crystal; Adkins, Norman; Thompson, Stephen; Hunkins, Garrett W.
Subject: RE: Status of FOIA EPA-HQ-2018-001917

Ms. Routt,

I am checking back with you to see what progress the agency has made concerning the search terms and the respective hits that each has produced. We're also still waiting on an explanation of how the agency calculated an estimated fee of \$75,000 to process a 5,000 documents. We expected a call from you or one of your staff last Thursday, but we did not receive one.

As I stated both in my email to you and on the phone last week, our Firm believes that the agency's \$75,000 quote is extreme, outrageous, and an effective denial of our right of access to public records. From our review of the regulation, it appears the agency has estimated that it will review at most 3.17 documents or 16 pages per hour using the most expensive personnel permitted. And, of course, because the agency has failed to meet the statutory deadline, no search fees may be assessed at all.

The Firm remains, as it has the past seven months, willing to work with the agency to both limit the scope of the request and to limit the expense required to process it. With that said, we need additional information from the agency before we can move forward. Please provide an explanation for the agency's cost estimate and a breakdown of the search results by search term as soon as possible, but in any event by **Monday, July 9**. Although we always prefer to resolve these issues with the agency, if we do not make some progress on this request we will be forced to seek judicial relief.

Best,

Ben

From: Routt, Christiane [<mailto:Routt.Christiane@epa.gov>]
Sent: Wednesday, June 27, 2018 4:27 PM
To: Hurst, Ben
Cc: Samuels, Crystal; Adkins, Norman; Thompson, Stephen; Hunkins, Garrett W.
Subject: RE: Status of FOIA EPA-HQ-2018-001917

Hi Ben,
Just following up on our conversation of yesterday.

I have asked the folks to check on the breakdown of documents by search term, so I am hoping we can get that to you soon. If this is helpful, as you said it might be, to help refine the scope- then it is in all of our interests. As I stated, my goal is to ensure you get records you are seeking – so the closer we can refine it, the better.

Also – I've followed up on the cost estimate to ensure we are all working from the same values, and if nothing – it will be good to have that experience anyway.

I am still on sick leave/surgery recovery, but will be checking my emails and hope to be able to get back to you within the next day or so.

Christiane E. Routt
Senior Advisor, OPARM, ORD
202-407-2652 -or- 571-291-5774

From: Hurst, Ben [<mailto:BHurst@gravesgarrett.com>]
Sent: Wednesday, June 20, 2018 1:11 PM
To: Routt, Christiane <Routt.Christiane@epa.gov>
Cc: Samuels, Crystal <Samuels.Crystal@epa.gov>; Adkins, Norman <adkins.norman@epa.gov>;
Thompson, Stephen <Thompson.Stephen@epa.gov>; Hunkins, Garrett W.
<ghunkins@gravesgarrett.com>
Subject: RE: Status of FOIA EPA-HQ-2018-001917

Ms. Routt,

Thank you very much for your email. I am somewhat surprised by the cost estimate, which seems to be running substantially higher than similar requests with other agencies.

Do you have any additional information about the potentially responsive documents? In particular, if you can give me a breakdown of how many documents hit for each search term, I think we might be able to significantly narrow the request and save both time and money. I suspect there are one or two search terms that are creating many false positives.

I am happy to correspond by email—we really do appreciate the open dialogue—but we’re happy to set up a call with you also. We’ve found that these calls can often be very productive. Please let me know.

Regards,

Ben

From: Routt, Christiane [<mailto:Routt.Christiane@epa.gov>]
Sent: Wednesday, June 20, 2018 11:55 AM
To: Hurst, Ben
Cc: Samuels, Crystal; Adkins, Norman; Thompson, Stephen
Subject: Status of FOIA EPA-HQ-2018-001917

Good Afternoon Mr. Hurst,

First, allow me to introduce myself – My name is Christiane Routt and I have only recently assumed responsibility and charge to manage the FOIA program for the Office of Research and Development.

I’m reaching out to you as the requestor for several reasons, all of which I hope will assist in moving this request closer to completion.

I saw that there were communications between yourself and Crystal Samuels (FOIA liaison in NCEA/ORD) regarding this specific request. She expressed concern over the potential volume of records and requested that you consider narrowing the scope, to which you pushed back but also mentioned you would reconsider once we had an approximate number of documents/records (emails of February 12, March 13 and April 25, 2018). In these exchanges, Ms. Samuels did provide a number of records (5,719) that were identified thus far.

I don’t believe there was a response from you regarding the volume/number of records or the reconsideration for a narrower scope to consider. We of course ask questions in narrowing search

scopes to ultimately expedite the FOIA requests, and have the records released. With a number this large, prior to any further processing, I want to be sure we are informing you of the estimated costs associated with this case.

The 5,719 records translate to an estimated number of 30,000 pages (if each document contains an average of 6 pages, and this includes attachments). Given the number of records, number of pages, and anticipated time spent in reviewing each record for responsiveness (for which reviews must be conducted twice), we have calculated fees associated with this request to be in the region of \$75,000. Of course, this is an estimate and we will not have more solid numbers until we start actually conducting the reviews. If the costs are running significantly higher than anticipated due to larger numbers of pages/attachments or complexity, we will of course let you know prior to proceeding any further.

Due to the magnitude of the volume and fees associated with this request, we ask that some payment up front be made before proceeding. A 15% down payment of \$11,250.00 towards this specific FOIA is an initial good faith payment and we should be able to proceed. Again, we will alert you if we anticipate a change in these estimates before we proceed further.

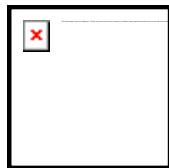
Of course, if you chose to have a more narrowed search scope (either people, timeframe or terms), this would likely reduce the volume and the cost. Please let me know how you wish to proceed. I understand that there have been a number of delays with this request, but am pleased to see that Ms. Samuels and you have been communicating the concerns, scope, and timeframes.

Please let me know if you would like to either 1) proceed and make payment (for which we will have FOIAonline provide you a billing invoice for the initial payment); or 2) if you would prefer to narrow the search scope some. I'm more than happy to discuss with you different options in narrowing the scope, should you choose to do so.

I appreciate your attention to this.

Christiane E. Routt
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J. Benton Hurst



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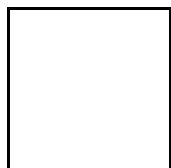
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