



DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING COMMAND SOUTHEAST
JACKSONVILLE, FL 32212-0030

5720
BD42/0526

AUG 02 2019

Caddell
James McKay
2700 Lagoon Park Drive
Montgomery, AL 36109-1100

Dear Mr. McKay:

SUBJECT: FREEDOM OF INFORMATION ACT REQUEST DON-NAVY-2019-005755/FY19-0020

This letter responds to the above Freedom of Information Act (FOIA) request. You have requested the following:

1. All documents and communications, whether originally in hardcopy or electronic format, related to Contract Modification P00004 and RFP-198, including but not limited to any analyses, reports, minutes of meetings, and correspondence of any kind (including emails, memos, letters, reports, etc.), pertaining to the total funded amount shown in Modification P00004.
2. All documents and communications which may have been relied upon or considered by anyone associated with, working on behalf of, and/or reporting to NAVFAC pertaining to the consideration, development, execution, and/or issuance of Modification P00004.
3. All documents and communications that NAVFAC considered or relied upon in determining the total amount of Mod P00004.
4. All documents and communications related to the pricing and scope of any re-procurement or re-bidding of the modifications/renovations associated with existing Building 2314 and the issuance of a new solicitation and contract, if applicable, for this work.

Upon review, we determined that the documents you seek are entirely exempt from disclosure under FOIA Exemption 5 (5 U.S.C §552 (b)(5)). The documents are pre-decisional, internal, and deliberative agency records marked source selection sensitive and for official use only. The documents were used for deliberations by Government contracting, technical, and legal personnel establishing a negotiation position for contract Modification P00004. The documents will be used for Government deliberations on future decisions under the contract. The subject contract remains open and has not been completed yet. There are various pending requests for equitable adjustment plus significant potential future claims and counterclaims overlapping the facts and circumstances surrounding Modification P00004. Release of the requested documents would adversely impact ongoing Government deliberations and future decisions under the contract.

In view of the above, you may consider this to be an adverse determination that may be appealed. If you have created an account in FOIA ONLINE, you may submit an appeal directly within the web-based system. To do that, you would log on to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail instead, you may submit an appeal to:

Exhibit C

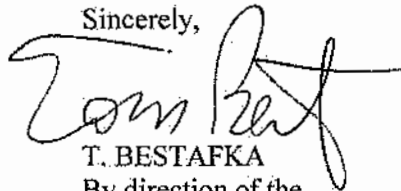
Department of the Navy
Office of the General Counsel
ATTN: FOIA APPEALS
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe your appeal should be granted. Both the appeal letter and the envelope should bear the notation, "Freedom of Information Act Appeal."

For any further assistance and to discuss any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.A.Julka@navy.mil or (703) 697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

I am the official responsible for this decision; if you have any questions concerning this matter, you may contact my FOIA Coordinator, Ms. Atina Hall, at (904) 542-6259 or email atina.hall@navy.mil.

Sincerely,



T. BESTAFKA
By direction of the
Commanding Officer