

EXHIBIT GG



Lance Sims <lsims@pogo.org>

Fwd: ICE FOIA Request 2019-ICFO-32901

Andrea Peterson <apeterson@pogo.org>
To: Lance Sims <lsims@pogo.org>, Lydia Dennett <ldennett@pogo.org>

Tue, Jun 18, 2019 at 10:43 AM

Here's what I sent, after getting feedback on email draft from Lance and Scott -- I did not receive an acknowledgement from the FOIA office

----- Forwarded message -----

From: **Andrea Peterson** <apeterson@pogo.org>
Date: Mon, Apr 29, 2019 at 12:26 PM
Subject: Re: ICE FOIA Request 2019-ICFO-32901
To: <ice-foia@dhs.gov>

Hello,

Thank you for your response to our FOIA response. In your response, I noticed that you refer to the Project On Government Oversight (POGO) as a commercial requester. Per the information in my original request, we are news media requester and request a fee waiver on that basis.

Please see below information about how POGO fits into the news media requester framework as established by statute:

Media vs. Commercial Requesters

45 CFR 1602.2 (k) Representative of the news media means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase or subscription or by free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news media entities. A freelance journalist shall be regarded as working for a news media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation. LSC may also consider the past publication record of the requester in making such a determination.

1. "Representative of the news media means any person or entity that gathers information of potential interest to a segment of the public," POGO fits this criterion as is a nonpartisan independent watchdog that investigates and exposes waste, corruption, abuse of power, and when the government fails to serve the public or silences those who report wrongdoing. POGO's investigators and journalists take leads and information from insiders and verify the information through investigations using FOIA, interviews, and other fact-finding strategies.

2. "...uses its editorial skills to turn the raw materials into a distinct

work,”

POGO’s journalists and investigators analyze the information they receive and after due diligence, fact-checking and verifying the source(s) of information, then produce publishable content in the form of both print and electronic media. POGO has previously published information related to the above referenced request.

3. “...and distributes that work to an audience.”

We then disseminate our findings through a variety of platforms. The information provided will be used for the following activities: publication by email and on our website; publication in reports and newsletters issued by POGO or by affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers in Washington, D.C.; and investigations conducted with the news media. POGO undertakes all of these actions to ensure the public is well-informed about the actions and operations of the federal government.

4. “Examples of news media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of “news”) who make their products available for purchase or subscription or by free distribution to the general public.”

All of POGO’s investigations are available for free to the public on our website, our primary vehicle for disseminating information to the Public. Additionally, we have published news stories in partnership with Mother Jones, The Daily Beast, Yahoo News, Politico, Slate, Ars Technica, Vox, Government Executive, and DefenseNews. Our work is often cited by major television and print media outlet and has won multiple journalism awards, such as the DC Chapter of the Society of Professional Journalist’s Dateline Award.

45 CFR 1602.2 (a) Commercial use request means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester properly belongs in this category, LSC will look to the use to which a requester will put the documents requested.

1. Commercial use request means a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial [...] interests of the requester or the person on whose behalf the request is made.

POGO holds no commercial interest in the requested information. As discussed above, the information will be used strictly for the public interest. We do not charge for access to information posted on our website, or for reports, newsletters, and other printed materials.

2. Commercial use request means a request from or on behalf of one who seeks information for a use or purpose that furthers the [...] trade[...]interests of the requester or the person on whose behalf the request is made.

POGO’s mission is the dissemination of information and has no trade interest in any subject area it investigates. As a nonprofit, nonpartisan organization committed to good governance, it is our mission to help the general public better understand how the taxpayers’ money is spent and whether government agencies spend their money in accordance with applicable legal and ethical standards.

3. Commercial use request means a request from or on behalf of one who seeks information for a use or purpose that furthers the [...] profit interests of the requester or the person on whose behalf the request is made.

POGO is an independent nonprofit that investigates and exposes corruption and other misconduct in order to achieve a more honest, open, and accountable federal government. POGO is not compensated for its journalistic activities.

Please confirm that you will be considering POGO a news media requester and waive associated fees with this request at your earliest convenience or no later than Wednesday May 1, 2019, or we will consider a formal appeal.

If you have any questions, please doesn't hesitate to give me a call at 785-410-4421.

Thanks so much for your time,

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