

# Exhibit H



**U.S. Department  
of Transportation**

**General Counsel**

1200 New Jersey Ave., S.E.  
Washington, DC 20590

Office of the Secretary  
of Transportation

December 30, 2019

Johanna Albaugh  
ACCOUNTABLE.us  
1919 M Street, N.W.  
Suite 450  
Washington, DC 20036

File No. **FY2020-97**

Dear Mr. Mintz:

The purpose of this letter is to acknowledge receipt of your recent request for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. You have a copy of all drafts of all press releases from the Federal Aviation Administration, the Office of the Secretary of Transportation and/or any division of the FAA or the Secretary's Office, drafted between March 10, 2019 and March 17, 2019, related to (i) Ethiopian Airlines Flight 302, (ii) Lion Air Flight 610, or (iii) the Boeing 737 MAX.

The Department of Transportation (DOT) is comprised of the Office of the Secretary (OST), including the Office of the Inspector General (OIG), and ten operating administrations. The OST, OIG and operating administrations each receive, process, and issue determinations on FOIA requests. Based on the scope of your request, your letter is being assigned to the office(s) identified in the enclosure—you will receive direct responses from each of the offices identified.

Please be advised that all FOIA requests will be handled on a first-in/first-out basis. The portion of your request assigned to OST will be addressed in the order it was received. We regret any inconvenience caused by the delay.

Processing fees may apply for FOIA requests as set forth in the Department of Transportation's (DOT) FOIA regulation (49 CFR Part 7.41).

If you have questions about the processing of your request, please contact the appropriate action office(s) identified in the enclosure. For the OST portion of your request, you may contact the OST FOIA Requester Service Center at (202) 366-4542.

Sincerely,

*Darlene A. Wallace*

Darlene A. Wallace  
Office of the Secretary  
FOIA Program Assistant

## IMPLEMENTATION OF THE FREEDOM OF INFORMATION ACT BY THE UNITED STATES DEPARTMENT OF TRANSPORTATION

Your request for records will be processed by one or more of the following organizations for direct response to you. An "X" placed adjacent to the official indicates the initial disposition of your request.

- ✓ **Federal Aviation Administration (FAA)**  
Assistant Administrator for Regions/Center Operations  
800 Independence Avenue, S.W., AFN-140/Rm 306  
Washington, DC 20591  
(202) 267-9165 or [7-AWA-ARC-FOIA@faa.gov](mailto:7-AWA-ARC-FOIA@faa.gov)
- **Federal Highway Administration (FHWA)**  
Freedom of Information Act Program Officer  
1200 New Jersey Avenue, SE, HCC-40/E82-125  
Washington, DC 20590  
(202) 366-0534 or [foia.officer@fhwa.dot.gov](mailto:foia.officer@fhwa.dot.gov)
- **Federal Motor Carrier Safety Administration (FMCSA)**  
Business Information and Operation Division  
1200 New Jersey Avenue, SE, MC-MMI/W66-308  
Washington, DC 20590  
(202) 385-2323 or [foia@fmcsa.dot.gov](mailto:foia@fmcsa.dot.gov)
- **Federal Railroad Administration (FRA)**  
Chief Counsel  
1200 New Jersey Avenue, SE, Stop-10W33-437  
Washington, DC 20590  
(202) 493-6039 or [FRAFOIA@dot.gov](mailto:FRAFOIA@dot.gov)
- **Federal Transit Administration (FTA)**  
Office of Management Planning  
1200 New Jersey Avenue, SE, E42-315/TAD-10  
Washington, DC 20590  
(202) 366-0782 or [foia@fta.dot.gov](mailto:foia@fta.dot.gov)
- **Maritime Administration (MARAD)**  
Freedom of Information Act Officer  
1200 New Jersey Avenue, SE, MAR-225/W24-208  
Washington, DC 20590  
(202) 366-2666 or [FOIA.MARAD@dot.gov](mailto:FOIA.MARAD@dot.gov)
- **National Highway Traffic Safety Adm. (NHTSA)**  
Director of Executive Secretariat  
1200 New Jersey Avenue, SE, NCC-113/W41-2296  
Washington, DC 20590  
(202) 366-1834 or [webmaster@nhtsa.dot.gov](mailto:webmaster@nhtsa.dot.gov)
- ✓ **Office of the Secretary (OST)**  
**Office of the General Counsel, OGC**  
Freedom of Information Act Officer  
1200 New Jersey Avenue, SE, C-60/W94-122  
Washington, DC 20590  
(202) 366-4542 or [ost.foia@dot.gov](mailto:ost.foia@dot.gov)
- **Office of the Secretary, OST**  
**VOLPE Center, V140**  
Freedom of Information Act Officer  
55 Broadway, Kendall Square  
Cambridge, MA 02142  
(617) 494-2718
- **Pipeline & Hazardous Materials Safety Adm. (PHMSA)**  
Freedom of Information Act Officer  
1200 New Jersey Avenue, SE, PHC-30/Room E23-306  
Washington, DC 20590  
(202) 366-6119 or [PHMSA.FOIA@dot.gov](mailto:PHMSA.FOIA@dot.gov)
- **St. Lawrence Seaway Development Corp. (SLSDC)**  
The Associate Administrator  
180 Andrews Street  
Massena, NY 13662-0520  
(315) 764-3210 or [slsdc@dot.gov](mailto:slsdc@dot.gov)
- **Senior Counsel to the Inspector General (OIG)**  
Office of the Inspector General  
1200 New Jersey Avenue, SE, J-3/W73-407  
Washington, DC 20590  
(202) 366-8751 or [OIGFOIA1@oig.dot.gov](mailto:OIGFOIA1@oig.dot.gov)

Department of Transportation Information Number is (202) 366-4000

# ACCOUNTABLE<sub>US</sub>

RECEIVED: 12/30/2019  
 DEADLINE: 01/24/2020  
 FILE NO.: 2020-97

December 30, 2019  
 Ost.foia@dot.gov

## **Re: Freedom of Information Act Request**

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing regulations of your agency,<sup>1</sup> Accountable.US requests access to and copies of all drafts of all press releases from the Federal Aviation Administration (“FAA”), the Office of the Secretary of Transportation (“Secretary’s Office”), and/or any division of the FAA or the Secretary’s Office, drafted between March 10, 2019 and March 17, 2019, related to (i) Ethiopian Airlines Flight 302, (ii) Lion Air Flight 610, or (iii) the Boeing 737 MAX.

If possible, we would prefer to receive this information electronically via e-mail at RPTFOIAS@accountable.us. Alternatively, we prefer PDF files on a USB drive or CD/DVD sent by mail to Accountable.US, 1919 M St. NW, Suite 450, Washington, DC 20036. If you have questions or need additional information, please feel free to call me at (202) 644-8526 ext. 308.

### **Fee Waiver Request**

Accountable.US requests a waiver of fees because its request is in the public interest.<sup>2</sup> Alternatively, Accountable.US requests “news media” status such that it only must pay duplication fees after the first 100 pages.<sup>3</sup>

Fee waiver is appropriate because the disclosure of the requested information is “in the public interest because it is likely to contribute significantly to public understanding” of government operations and is not “primarily in the commercial interest of the requester.” The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public’s business. It will thereby significantly increase the public’s understanding of these issues. And it will do so on issues for which there is significant and ongoing public interest, namely the multiple crashes of Boeing 737 MAX aircraft and the government actions before and after those crashes, including as reported on by the New York Times. *See, e.g.,* <https://www.nytimes.com/2019/03/10/world/africa/ethiopian-airlines-plane-crash.html> (Mar. 10, 2019); <https://www.nytimes.com/2019/12/23/business/Boeing-ceo-muilenburg.html?searchResultPosition=2> (Dec. 23, 2019). Accountable.US has no, or very little, commercial interest in the disclosure, particularly in comparison to the obvious and significant public interest.

Alternatively, limitation of the fees charged to Accountable.US via recognition of Accountable.US’s “media status” is consistent with how Accountable.US components, including Restore Public Trust, have been treated by multiple agencies. The U.S. Department of Agriculture, for example, recognized this status in light of the regular publication and dissemination activities in which Accountable.US engages. Accountable.US will use the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. Accountable.US will also make materials it gathers, along with its analysis of those materials, available on its public website.<sup>4</sup>

<sup>1</sup> Title 49; *see, e.g.*, 49 C.F.R. Part 7.

<sup>2</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>3</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II).

<sup>4</sup> Accountable.US and its components have demonstrated a commitment to public disclosure and public education through its website. For example, their websites contain multiple substantive analyses, document

# ACCOUNTABLE<sub>US</sub>

Finally, relevant to both Accountable.US's fee waiver request and its alternative "media status" request, this document request is primarily and fundamentally for non-commercial purposes. On March 26, 2019, Accountable.US applied to be recognized as a not for profit, 501(c)(3) organization, with the Internal Revenue Service. Accordingly, Accountable.US does not have a commercial purpose and the release of the information requested is not in Accountable.US's financial interest. Accountable.US's mission is to ensure public officials are advancing policies in the public's interest rather than for special interests.

Accordingly, Accountable.US qualifies for a fee waiver or, alternatively, for fee limitations because of its "media status."

## Conclusion

If you have any questions regarding this request, including how to construe the records sought or appropriate searches to locate them, please contact Accountable.US.

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. Additionally, if any documents are withheld based on the Agency's interpretation of any exemption, Accountable.US requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). Specifically, this *Vaughn* index should describe withheld documents with enough specificity to determine whether the material is exempt under the act and must describe each document or portion withheld.

Thank you for your assistance.

Sincerely,

Johanna Albaugh  
Accountable.US

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repositories, and other educational resources: [AlliedProgress.org/research](https://AlliedProgress.org/research); [AlliedProgress.org/campaigns](https://AlliedProgress.org/campaigns);  
[RestorePublicTrust.org/news](https://RestorePublicTrust.org/news); [restorepublictrust.org/bigpharmasbestfriends](https://restorepublictrust.org/bigpharmasbestfriends);  
[WesternValuesProject.org/DepartmentofInfluence](https://WesternValuesProject.org/DepartmentofInfluence)