

Exhibit A



Via Electronic Mail – Delivery and Read Receipt Requested

March 25, 2019

U.S. Department of Veterans Affairs
Attn: Laura Hughes, FOIA Officer
1201 Walnut Street, Suite 800
Kansas City, MO 64106
Laura.Hughes3@va.gov

RE: FREEDOM OF INFORMATION ACT REQUEST

Project Name: Upgrade Emergency Department (PN589A5-15-115)
Location: Topeka, Kansas
Contract Number: 36C255-18-C-0172
General Contractor: Hernandez Consulting

Dear Ms. Hughes:

Torres Consulting and Law Group, LLC (TCLG) submits this FOIA Request on behalf of the International Brotherhood of Electrical Workers (IBEW), a recognized 501(c)(5) non-profit organization.

To achieve the goals promulgated under the Davis-Bacon and Related Acts (DBRA), an analysis of the pertinent project information, including contract information and certified payrolls, is performed to ensure that compliance with DBRA is mandated and enforced.

We formally request the following information for the above-referenced project:

1. All certified payroll records for the trade work of Electrician
TCLG specifically does not request the following fields of information contained within certified payroll records: employee name, employee address and employee social security number. TCLG maintains that employee name, employee address and employee social security number are to be redacted in accordance with FOIA Exemption (b)(6) so that the remaining fields of information provided on the certified payroll records can be produced absent creating an unwarranted invasion of personal privacy.
2. Contractor fringe benefit statement(s) including, if applicable, apprentices

If there is an assessment of fees for the processing of this request, please inform me prior to fees being incurred. Please send all requested information by email or to our office.

If you have any questions or concerns regarding any aspect of this request, please do not hesitate to contact me directly. Thank you in advance for your prompt attention and help in regards to this request.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Peaslee". The signature is written in black ink and is positioned above the typed name.

Leslie Peaslee
Compliance Specialist

EXHIBIT B

Leslie Schimelpfenig

From: Leslie Schimelpfenig
Sent: Wednesday, July 10, 2019 10:11 AM
To: 'Hughes, Laura (V15)'
Subject: RE: FOIA Request_Upgrade Emergency Department

Ms. Hughes, can you please provide me with an update on this?

Thank you,
Leslie

From: Leslie Schimelpfenig
Sent: Wednesday, June 12, 2019 10:00 AM
To: 'Hughes, Laura (V15)'
Subject: RE: FOIA Request_Upgrade Emergency Department

Good morning Ms. Hughes. Can you please advise on the status of my requests since official acknowledgements still have not been received?

Thank you,
Leslie

From: Hughes, Laura (V15) [<mailto:Laura.Hughes3@va.gov>]
Sent: Tuesday, May 28, 2019 10:21 AM
To: Leslie Peaslee
Subject: RE: FOIA Request_Upgrade Emergency Department

Hello Ms. Peaslee,

Thank you for the courtesy notice of your organizations discussion of next steps., related to V15 FOIA processing. I apologize for lack of a timely response to your e-mail and telephone message. As explanation, you may know that FOIA responsibilities are collateral for all field (medical center, network office) staff; and in my case I have been managing multiple high-priority projects for several months.

That said, I am committing this week to FOIA duties, following VHA's multi-track processing policy, and prioritizing your pending requests.

Laura Hughes
V15 FOIA

From: Leslie Peaslee <leslie@thetorresfirm.com>
Sent: Tuesday, May 28, 2019 10:11 AM
To: Hughes, Laura (V15) <Laura.Hughes3@va.gov>
Subject: [EXTERNAL] RE: FOIA Request_Upgrade Emergency Department

Ms. Hughes, please be advised that I have a meeting with our legal team this week to discuss next steps since you have failed to acknowledge this FOIA Request since it was submitted on March 25th, more than two months ago.

Respectfully,
Leslie

From: Leslie Peaslee
Sent: Thursday, May 23, 2019 11:17 AM
To: 'Laura.Hughes3@va.gov'
Subject: RE: FOIA Request_Upgrade Emergency Department
Importance: High

Ms. Hughes, please advise on the status of this FOIA Request.

Thanks,
Leslie

From: Leslie Peaslee
Sent: Wednesday, May 1, 2019 11:25 AM
To: 'Laura.Hughes3@va.gov'
Subject: RE: FOIA Request_Upgrade Emergency Department

Ms. Hughes, please advise on the status of this FOIA Request. I am still waiting on an acknowledgement.

Thank you,
Leslie

From: Leslie Peaslee
Sent: Tuesday, April 23, 2019 8:52 AM
To: 'Laura.Hughes3@va.gov'
Subject: RE: FOIA Request_Upgrade Emergency Department

Good morning Ms. Hughes. Please advise on the status of this FOIA Request.

Thank you,
Leslie

From: Leslie Peaslee
Sent: Monday, March 25, 2019 9:26 AM
To: Laura.Hughes3@va.gov
Subject: FOIA Request_Upgrade Emergency Department

Ms. Hughes, attached please find a new FOIA Request for the Upgrade Emergency Department project, contract number 36C255-18-C-0172. I'm looking to obtain copies of all electrical certified payroll records.

Please respond to this email with an acknowledgement and tracking number.

Thank you,
Leslie

Leslie Peaslee
Compliance Specialist
Torres Consulting & Law Group, LLC
2239 W. Baseline Road
Tempe, AZ 85283
Office: (602) 626-8805
Cell: (520) 858-2482
leslie@thetorresfirm.com
www.THETORRESFIRM.COM

Exhibit C



An Arizona Law Firm

Israel G. Torres
James E. Barton II
Jacqueline M. Soto

Delivered Via USPS Mail

October 4, 2019

U.S. Department of Veterans Affairs
Office of General Counsel (024)
810 Vermont Avenue NW
Washington, DC 20420

RE: APPEAL UNDER THE FREEDOM OF INFORMATION ACT

March 25 2019 Request

Project Name: Upgrade Emergency Department (PN589A5-15-115)
Location: Topeka, Kansas
Contract Number: 36C255-18-C-0172
General Contractor: Hernandez Consulting

May 15 2019 Request

Project Name: Renovate 2nd Floor for Veterans Crisis Line
Location: Topeka, Kansas
Contract Number: 36C255-19-C-0049
General Contractor: WFV 3 Construction

Dear Counsel,

We represent Torres Consulting and Law Group (“TCLG”) in this administrative appeal relating to the two overdue Freedom of Information Act Requests named above. The U.S. Department of Veterans Affairs (“VA”) is in violation of the Freedom of Information Act (“FOIA”) 5 U.S.C. § 552 for violating the time limits found therein. Under FOIA, violations of time limits can be treated as constructive denials that trigger appeal rights. By this letter, we appeal the constructive denial.

The Requests at Issue

On March 25, 2019, TCLG submitted a FOIA request for the following information for the above captioned project:

1. “All certified payroll records for the trade work of Electrician TCLG specifically does not request the following fields of information contained within certified payroll records: employee name, employee address and employee social security number. TCLG maintains that employee name, employee address and employee social security number are to be redacted in accordance with FOIA Exemption (b)(6) so that the remaining fields of information provided on the certified payroll records can be produced absent creating an unwarranted invasion of personal privacy.

2. Contractor fringe benefit statement(s) including, if applicable, apprentices”

On May 15, 2019, TCLG submitted a FOIA request for the following information for the above captioned project:

- “1. Notice to Proceed
2. Current construction schedule
3. Designated wage determination incorporated into project contract
4. Subcontractors list”

VA's Undue Delay in Violation of FOIA

TCLG has not received any formal acknowledgement or tracking number for either FOIA request. TCLG has corresponded with FOIA Officer Hughes regarding the status of both requests including informing her that the time limits have been violated, allowing for an administrative appeal.

For the March 25, 2019 request, TCLG continued to diligently follow up with the VA on the following dates and the following manners:

- Follow up email 4/23/2019
- Follow up email 5/1/2019
- Follow up voicemail 5/15/2019
- Follow up email 5/23/2019
- Follow up email 5/28/2019
- 8/5/2019 demand letter to provide acknowledgement, time to completion and records requested

On May 28, 2019, TCLG received a response from the FOIA Officer Hughes that indicated she was backlogged because the VA was managing multiple high priority projects for several months, but that she was committed to VA's multi-rack processing policy and prioritizing this request. After this email, TCLG reached out again on June 12 and again on July 10. TCLG still does not have an acknowledgement, tracking number, or any information about the status of its record request or a time estimate to completion.

This is also true of the May 15, 2019 request. TCLG submitted it, but has not yet received an acknowledgement or tracking number, let alone a determination.

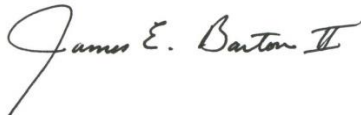
It has now been **193 days** since the March 25 request and **142 days** since the May 15 request.

Conclusion

As you know, FOIA requires a determination by the agency within 20 day of receipt of a request. 5 U.S.C. § 552(a)(6)(i). VA has failed to provide a determination within the 20 days. Your office should determine the records are releasable and release them.

Thank you for your time and attention to this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "James E. Barton II".

James E. Barton II

Exhibit D

VA



U.S. Department of Veterans Affairs

Veterans Health Administration
VA Heartland Network - VISN 15

1201 Walnut Street
Suite 800
Kansas City, MO 64106

November 1, 2019

Ms. Leslie Schimelpfenig
Compliance Specialist
Torres Consulting and Law Group, LLC
2239 W. Baseline RD.
Tempe, AZ 85283
E-mail: leslie@thetorresfirm.com

In Reply Refer To
FOIA Request: **19-01995-F**

Dear Ms. Schimelpfenig,

This letter completes the initial agency response to your October 1, 2018 request for agency records pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. § 552.

Your electronic FOIA request was received by the Veteran's Integrated Service Network (VISN) 15 FOIA Office on October 1, 2018 and assigned FOIA reference number 19-01995-F. Please reference this number in future communications with us regarding this FOIA request.

In your electronic FOIA Request, you stated:

"Project Name: Upgrade Emergency Department (PN589A5-15-115)
Location: Topeka, Kansas
Contract Number: 36C255-18-C-0172
General Contractor: Hernandez Consulting

We formally request the following information for the above-referenced project:

1. Notice to Proceed
2. Current construction schedule/project timeline
3. Designated wage determination incorporated into project contract
4. Subcontractors list
5. Copy of the subcontractors Statement and Acknowledgment (SF-1413) "

On December 12, 2018 I wrote to you, acknowledging receipt of your perfected FOIA request and, outlining our next steps to process your record request, to include my initial determination as a rolling record response.

In my December 12th correspondence the results of the Network Contracting Office (NCO15) search for records potentially responsive to your record request were discussed.

Torres Consulting
FOIA Request: 19-01995-F
November 1, 2019

At the conclusion of NCO15's reasonable search of electronic paper record systems, and e-mail accounts for contract no. 36C255-18-C-0172, and/or vendor Hernandez Consulting, and/or Topeka Emergency Department (ED) Renovation (Reno); five (5) agency records totaling 18- pages were identified responsive to your request.

Of the five (5) records identified, two (2) of the five (5) records were analyzed and released as a partial grant/denial on December 12, 2018. Specifically, the Notice to Proceed and Designated wage determination incorporated into project contract were released. The remaining three (3) records were determined to contain information which falls within the disclosure prohibition of FOIA Exemption 4. FOIA Exemption 4 requires the VA by Executive Order 12,600 to notify the submitter of the record(s) of a FOIA request. The notification process must offer the submitter an opportunity to object to the disclosure of the record(s) in whole or in part. In notifying the submitter of this opportunity, the submitter is advised of their responsibility to provide a factual explanation of how substantial competitive harm would likely to result from disclosure of the records to the FOIA requestor. A copy of the regulation is available at: http://www.foia.va.gov/FOIA_Regulations_1550.asp. I explained the submitter notification process had been initiated, and I would write to you at the conclusion of that process with the initial agency response to the remaining three (3) items in your record request. This process has been completed.

After consideration of the evidence available to me, I have concluded the records responsive to your request for (a) construction schedule/project timeline, (b) subcontractor list, and (c) subcontractors Statement and Acknowledgment (SF-1413); contain confidential commercial information, and personally identifiable information subject to protection under FOIA Exemptions 4 and 6. The remaining records responsive to your record request are released as a partial grant/denial as detailed below.

Construction schedule/project timeline: 2 of 2 pages were found to contain commercial confidential aka 'private' information which if disclosed would factually and reasonably be likely to compromise Hernandez Consulting, a privately-owned company, competitive market position. Analysis of the record supports classification of the record as proprietary commercial property created and submitted to the VA by Hernandez Consulting. The record is not the property of the VA nor does the record shed light on how the agency does business. Based on this analysis it is my opinion that disclosure of the private commercial record to include task, sequence, priority of tasks, and timelines would likely harm both Hernandez Consulting and the VA, revealing proprietary private business property the submitter developed at their own cost; and would undermine VA's ability to solicit fair and reasonable responses to construction projects in the future. In making the decision to withhold Hernandez Consulting's project schedule and timeline, I also relied upon the impairment prong of FOIA Exemption 4, 5 U.S.C § 552, b(4). Two-pages are released with redaction of task, path and timeline.

Torres Consulting
FOIA Request: 19-01995-F
November 1, 2019

Subcontractor List: one record, 2-pages was found responsive to your request. The record is withheld in full under FOIA Exemption 4. Again, we considered the impairment prongs of b(4), and found the information submitted by Hernandez Consulting to be a record created as part of Hernandez Consulting's commercial interest, and not for the VA. Disclosure of Hernandez Consulting's list of subcontractors we believe would reveal commercial information likely to jeopardize Hernandez' ability to perform and complete competitively in the market. 2-pages congaing the names and address of commercial sub-contractors is withheld in full under Exemption 4 and Exemption 6. FOIA Exemption 6 protects from disclosure personally identifiable information, when disclosure of the information would constitute an unwarranted intrusion of a personal privacy interest.

Subcontractors Statement and Acknowledgment (SF-1413): 8pages are released as a partial grant/denial. The names and contact information of all subcontractors are withheld under b(4) and b(6) as applied above,

If you disagree with my determination to withhold information under FOIA Exemption 4, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:
Email Address: vhafolia2@va.gov
Phone Number: (877) 461-5038

Office of Government Information Services (OGIS)
Email: ogis@nara.gov
Fax: (202) 741-5769

Torres Consulting
FOIA Request: 19-01995-F
November 1, 2019

Mailing address: Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

This letter concludes the administrative processing of your FOIA request. Should you have any questions, please feel free to contact me (816) 701-3009 or by e-mail at VISN15.FOIA@va.gov.

Sincerely,



Laura Hughes
HIMS, Privacy/FOIA, Record
Manager
VA Heartland Network

Encl: Project schedule/timeline (2-pages)
SF-1413 (8-pages)

Exhibit E

From: Leslie Schimelpfenig
Sent: Wednesday, May 27, 2020 12:14 PM
To: 'visn15.foia@va.gov'; Hughes, Laura (V15)
Subject: RE: FOIA 20-02577-F

Good afternoon. Please advise on the status of FOIA 20-02577-F.

Thank you,
Leslie

Leslie Schimelpfenig
Torres Consulting & Law Group
2239 W. Baseline Road
Tempe, AZ 85283
Cell: (520) 858-2482
leslie@thetorresfirm.com
www.THETORRESFIRM.COM

TCLG staff are working remotely until further notice. Our physical office in Tempe is closed and we are conducting business with clients and partners via phone calls and email.



From: Leslie Schimelpfenig
Sent: Thursday, April 23, 2020 8:34 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>; 'Hughes, Laura (V15)' <Laura.Hughes3@va.gov>
Subject: RE: FOIA 20-02577-F

Good morning. I would also like an update on this one as well – FOIA 20-02577-F:

Thank you,
Leslie

From: Leslie Schimelpfenig
Sent: Thursday, March 26, 2020 9:44 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>; 'Hughes, Laura (V15)' <Laura.Hughes3@va.gov>
Subject: RE: FOIA 20-2577-F

Hello Ms. Hughes. I'm just checking in on this again. We were advised by the Office of General Counsel that you are still working on it.

Please advise.

Thank you,
Leslie

From: Leslie Schimelpfenig
Sent: Thursday, February 20, 2020 9:13 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>; 'Hughes, Laura (V15)' <Laura.Hughes3@va.gov>
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Ms. Hughes, please advise on the status of documents responsive to FOIA 20-2577-F. Failure to respond will result in our legal team reaching out again to your Office of General Counsel, case 141207.

Sincerely,
Leslie

From: Leslie Schimelpfenig
Sent: Wednesday, January 22, 2020 10:08 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>
Cc: 'Hughes, Laura (V15)' <Laura.Hughes3@va.gov>
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Good afternoon Ms. Hughes. I'm just checking in on the status of this request. If you could please provide me with an update, I would greatly appreciate it.

Thank you,
Leslie

From: Hughes, Laura (V15) <Laura.Hughes3@va.gov>
Sent: Tuesday, December 17, 2019 5:01 PM
To: Leslie Schimelpfenig <leslie@thetorresfirm.com>
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Ms. Schimelpfenig, Attached please find acknowledgement to your 3/25/19 request for certified payroll and fringe benefit records for the Topeka ED Renovation Project. As noted below, I failed to recognize the multiple and different record requests for the same project. We have initiated the search and will process the records as they become available to the FOIA Officer.

Sincerely,

Laura Hughes

From: Leslie Schimelpfenig <leslie@thetorresfirm.com>
Sent: Tuesday, December 3, 2019 9:44 AM
To: Hughes, Laura (V15) <Laura.Hughes3@va.gov>
Subject: [EXTERNAL] RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Hi Laura. I'm just checking in on this again. We received a letter from Tracy Knight saying our appeal is now closed. I will be writing a letter this week advising of the inaccuracy of that statement if no response is received from you by tomorrow, 12/4.

Thanks,
Leslie

From: Leslie Schimelpfenig
Sent: Monday, November 25, 2019 8:42 AM
To: 'Hughes, Laura (V15)'
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Hi Laura. Have you had a chance to look in to this request?

Thanks,
Leslie

From: Hughes, Laura (V15) [<mailto:Laura.Hughes3@va.gov>]
Sent: Tuesday, November 19, 2019 4:39 PM
To: Leslie Schimelpfenig
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Thank you I will follow-up with you tomorrow.

Laura

From: Leslie Schimelpfenig <leslie@thetorresfirm.com>
Sent: Tuesday, November 19, 2019 5:33 PM
To: Hughes, Laura (V15) <Laura.Hughes3@va.gov>
Subject: [EXTERNAL] RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

This is a different FOIA Request than the one you recently responded to. That FOIA was originally submitted on October 1, 2018. This FOIA asking for certified payroll records was submitted on March 25, 2019, both attached.

From: Hughes, Laura (V15) [<mailto:Laura.Hughes3@va.gov>]
Sent: Tuesday, November 19, 2019 4:27 PM
To: Leslie Schimelpfenig
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Ms. Schimelpfenig, Please see the attached. If there was a problem with receipt of the November 1 e-mail please let me know so I am sure my contact list is corrected.

Regards,
Laura Hughes
V15 FOIA

From: Leslie Schimelpfenig <leslie@thetorresfirm.com>
Sent: Tuesday, November 19, 2019 4:35 PM
To: Hughes, Laura (V15) <Laura.Hughes3@va.gov>
Subject: [EXTERNAL] RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Good afternoon Ms. Hughes. Can you please provide me with an update on the attached request, originally submitted on 3/25/2019?

Thank you,

Leslie

From: Leslie Schimelpfenig
Sent: Tuesday, November 5, 2019 11:26 AM
To: 'Hughes, Laura (V15)'
Subject: RE: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Thank you Ms. Hughes. I also have another outstanding FOIA for this project, submitted on March 25, 2019. Please advise on the status of that request as it was for electrical certified payroll records.

Thank you,

Leslie

From: Hughes, Laura (V15) [<mailto:Laura.Hughes3@va.gov>]
Sent: Friday, November 1, 2019 2:55 PM
To: Leslie Schimelpfenig
Subject: Contract Number: 36C255-18-C-0172 Topeka ED Reno

Ms. Leslie Schimelpfenig

Attached to this e-mail, please find the conclusion to the initial agency response to your FOIA request for records described as

“Project Name: Upgrade Emergency Department (PN589A5-15-115)

Location: Topeka, Kansas

Contract Number: 36C255-18-C-0172

General Contractor: Hernandez Consulting

We formally request the following information for the above-referenced project:

1. Notice to Proceed
2. Current construction schedule/project timeline
3. Designated wage determination incorporated into project contract
4. Subcontractors list
5. Copy of the subcontractors Statement and Acknowledgment (SF-1413) “

As detailed in the attached letter this is the conclusion to a rolling record response. Items #1 and #3 were previously released on December 12, 2018.

Regards,
Laura Hughes
V02 FOIA Officer

Exhibit F

VA



U.S. Department of Veterans Affairs

Veterans Health Administration
VA Heartland Network - VISN 15

1201 Walnut Street
Suite 800
Kansas City, MO 64106

November 14, 2019

Ms. Leslie Schimelpfenig
Compliance Specialist
Torres Consulting and Law Group, LLC
2239 W. Baseline RD.
Tempe, AZ 85283
E-mail: leslie@thetorresfirm.com

In Reply Refer To
FOIA Request: **20-01005-F**

Dear Ms. Schimelpfenig,

This letter provides the completion of the initial agency response to your May 15, 2019 request for agency contract records pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. § 552.

Your electronic FOIA request was received by the Veteran's Integrated Service Network (VISN) 15 FOIA Offices on May 15, 2019. FOIA reference number 20-01005-FF was assigned to your request.

Your electronic FOIA Request stated:

"Project Name: Renovate 2nd Floor for Veterans
Crisis Line Location: Topeka, Kansas
Contract Number:
36C255-19-C-0049
General Contractor:
WFV3 Construction

We formally request the following information for the above-referenced project:

1. Notice to Proceed
2. Current construction schedule
3. Designated wage determination incorporated into project contract
4. Subcontractors list "

On October 30, 2019 I wrote to you, acknowledging receipt of your perfected FOIA request and, outlining our next steps to process your record request, to include my initial determination as a rolling record response.

In my October 30th correspondence the results of the Network Contracting Office (NCO15) search for records potentially responsive to your record request were discussed.

Torres Consulting
FOIA Request: 20-01005-F
November 14, 2019

At the conclusion of NCO15's reasonable search of electronic paper record systems, and e-mail accounts for contract no. 36C255-19-C-0049, and/or vendor WFV3 Construction, and/or Topeka Veterans Crisis Line four (4) agency records totaling 10- pages were identified responsive to your request.

Of the four (4) records identified, two (2) of the four (4) records were analyzed and released as a full grant on October 30, 2019. Specifically, the Notice to Proceed and Designated wage determination incorporated into project contract were released. The remaining two (2) records were determined to contain information that falls within the disclosure prohibition of FOIA Exemption 4. FOIA Exemption 4 requires the VA by Executive Order 12,600 to notify the submitter of the record(s) of a FOIA request. The notification process must offer the submitter an opportunity to object to the disclosure of the record(s) in whole or in part. In notifying the submitter of this opportunity, the submitter is advised of their responsibility to provide a factual explanation of how substantial competitive harm would likely to result from disclosure of the records to the FOIA requestor. A copy of the regulation is available at: http://www.foia.va.gov/FOIA_Regulations_1550.asp. I explained the submitter notification process had been initiated, and I would write to you at the conclusion of that process with the initial agency response to the remaining three (3) items in your record request. This process has been completed.

After consideration of the evidence available to me, I have concluded the records responsive to your request for (a) construction schedule/project timeline, and (b) subcontractor list, contain confidential commercial information, and personally identifiable information subject to protection under FOIA Exemptions 4 and 6. The remaining records responsive to your record request are released as a partial grant/denial as detailed below.

Construction schedule/project timeline: 3 of 3 pages were found to contain commercial confidential aka 'private' information which if disclosed would factually and reasonably be likely to compromise WFV3 Construction, competitive market position. The schedule/project timeline record is the proprietary commercial property of the submitter. The project/schedule timeline reflects confidential information gathered and developed by the submitter. Based on this analysis it is my opinion that disclosure of the private commercial record to include task, sequence, priority of tasks, and timelines would likely harm both WFV3 Construction and the VA, by revealing proprietary confidential business property, WFV3 Construction has developed at their own cost. Public disclosure of this type of submitter information would undermine VA's ability to solicit fair and reasonable responses to construction projects in the future. In making the decision to withhold WFV3 Construction project schedule and timeline, I also relied upon the impairment prong of FOIA Exemption 4, 5 U.S.C § 552, b(4). Three-pages are released with redaction of task, path and timeline.

Subcontractor List: one record, 1-page was found responsive to your request. The record is withheld under FOIA Exemption 4 and Exemption 6 as a partial grant/denial. Again, we considered the impairment prongs of b(4), and found the information submitted

Torres Consulting
FOIA Request: 20-01005-F
November 14, 2019

by WFV3 Construction to be a record created as part of WFV3 Construction commercial interest, and not for the VA. Disclosure of WFV3 Construction's subcontractor list we believe would reveal commercial information likely to jeopardize WFV3 Construction's ability to perform and complete competitively in the market. 1-pages congaing the names and address of commercial sub-contractors is withheld in full under Exemption 4 and Exemption 6. FOIA Exemption 6 protects from disclosure personally identifiable information, when disclosure of the information would constitute an unwarranted intrusion of a personal privacy interest.

If you disagree with my determination to withhold information under FOIA Exemptions 4 and 6, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:
Email Address: vhafaoia2@va.gov
Phone Number: (877) 461-5038

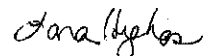
Office of Government Information Services (OGIS)
Email: ogis@nara.gov
Fax: (202) 741-5769

Mailing address: Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

Torres Consulting
FOIA Request: 20-01005-F
November 14, 2019

This letter concludes the administrative processing of your FOIA request. Should you have any questions, please feel free to contact me (816) 701-3009 or by e-mail at VISN15.FOIA@va.gov.

Sincerely,



Laura Hughes
HIMS, Privacy/FOIA, Record
Manager
VA Heartland Network

Encl: Project schedule/timeline (3-pages)
Subcontractor List (1-page)

Exhibit G

RECEIVED NOV 22 2019

VA



U.S. Department
of Veterans Affairs

Office of the General Counsel
Washington DC 20420

In Reply Refer To: 024J
OGC Case #: 138307
FOIA # 20-01005-F
FOIA # 19-01995-F

November 19, 2019

Mr. James E. Barton II
Torres Law Group
1139 West Baseline Road
Tempe, AZ 85383

Dear Mr. Barton:

This letter is in response to your letter dated October 4, 2019, addressed to our Office. You wrote to us regarding the FOIA Requests # 20-01005-F and 19-01995-F

Following receipt of your letter, we consulted with Ms. Laura Hughes, FOIA Officer for the VA Heartland Network, VISN 15, Kansas City, MO. She provided us with copies of her November 14, 2019 and November 1, 2019 letters addressed to Ms. Leslie Schimelpfenig, Compliance Specialist from your office regarding these two FOIA requests. Copies of Ms. Hughes's Initial Agency Decisions are enclosed for your use.

Based upon the foregoing, we are closing your appeal, OGC case #138307, and we are taking no further action on your October 4, 2014, FOIA Appeal.

Sincerely,

Tracy Knight

Tracy Knight
Government Information Specialist

Enclosures

cc: Laura Hughes, VISN 15 FOIA Officer

VA



U.S. Department of Veterans Affairs

Veterans Health Administration
VA Heartland Network - VISN 15

1201 Walnut Street
Suite 800
Kansas City, MO 64106

November 14, 2019

Ms. Leslie Schimelpfenig
Compliance Specialist
Torres Consulting and Law Group, LLC
2239 W. Baseline RD.
Tempe, AZ 85283
E-mail: leslie@thetorresfirm.com

In Reply Refer To
FOIA Request: **20-01005-F**

Dear Ms. Schimelpfenig,

This letter provides the completion of the initial agency response to your May 15, 2019 request for agency contract records pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. § 552.

Your electronic FOIA request was received by the Veteran's Integrated Service Network (VISN) 15 FOIA Offices on May 15, 2019. FOIA reference number 20-01005-FF was assigned to your request.

Your electronic FOIA Request stated:

"Project Name: Renovate 2nd Floor for Veterans
Crisis Line Location: Topeka, Kansas
Contract Number:
36C255-19-C-0049
General Contractor:
WFV3 Construction

We formally request the following information for the above-referenced project:

1. Notice to Proceed
2. Current construction schedule
3. Designated wage determination incorporated into project contract
4. Subcontractors list "

On October 30, 2019 I wrote to you, acknowledging receipt of your perfected FOIA request and, outlining our next steps to process your record request, to include my initial determination as a rolling record response.

In my October 30th correspondence the results of the Network Contracting Office (NCO15) search for records potentially responsive to your record request were discussed.

Torres Consulting
FOIA Request: 20-01005-F
November 14, 2019

At the conclusion of NCO15's reasonable search of electronic paper record systems, and e-mail accounts for contract no. 36C255-19-C-0049, and/or vendor WFV3 Construction, and/or Topeka Veterans Crisis Line four (4) agency records totaling 10- pages were identified responsive to your request.

Of the four (4) records identified, two (2) of the four (4) records were analyzed and released as a full grant on October 30, 2019. Specifically, the Notice to Proceed and Designated wage determination incorporated into project contract were released. The remaining two (2) records were determined to contain information that falls within the disclosure prohibition of FOIA Exemption 4. FOIA Exemption 4 requires the VA by Executive Order 12,600 to notify the submitter of the record(s) of a FOIA request. The notification process must offer the submitter an opportunity to object to the disclosure of the record(s) in whole or in part. In notifying the submitter of this opportunity, the submitter is advised of their responsibility to provide a factual explanation of how substantial competitive harm would likely to result from disclosure of the records to the FOIA requestor. A copy of the regulation is available at: http://www.foia.va.gov/FOIA_Regulations_1550.asp. I explained the submitter notification process had been initiated, and I would write to you at the conclusion of that process with the initial agency response to the remaining three (3) items in your record request. This process has been completed.

After consideration of the evidence available to me, I have concluded the records responsive to your request for (a) construction schedule/project timeline, and (b) subcontractor list, contain confidential commercial information, and personally identifiable information subject to protection under FOIA Exemptions 4 and 6. The remaining records responsive to your record request are released as a partial grant/denial as detailed below.

Construction schedule/project timeline: 3 of 3 pages were found to contain commercial confidential aka 'private' information which if disclosed would factually and reasonably be likely to compromise WFV3 Construction, competitive market position. The schedule/project timeline record is the proprietary commercial property of the submitter. The project/schedule timeline reflects confidential information gathered and developed by the submitter. Based on this analysis it is my opinion that disclosure of the private commercial record to include task, sequence, priority of tasks, and timelines would likely harm both WFV3 Construction and the VA, by revealing proprietary confidential business property, WFV3 Construction has developed at their own cost. Public disclosure of this type of submitter information would undermine VA's ability to solicit fair and reasonable responses to construction projects in the future. In making the decision to withhold WFV3 Construction project schedule and timeline, I also relied upon the impairment prong of FOIA Exemption 4, 5 U.S.C § 552, b(4). Three-pages are released with redaction of task, path and timeline.

Subcontractor List: one record, 1-page was found responsive to your request. The record is withheld under FOIA Exemption 4 and Exemption 6 as a partial grant/denial. Again, we considered the impairment prongs of b(4), and found the information submitted

Torres Consulting
FOIA Request: 20-01005-F
November 14, 2019

by WFV3 Construction to be a record created as part of WFV3 Construction commercial interest, and not for the VA. Disclosure of WFV3 Construction's subcontractor list we believe would reveal commercial information likely to jeopardize WFV3 Construction's ability to perform and complete competitively in the market. 1-pages congaing the names and address of commercial sub-contractors is withheld in full under Exemption 4 and Exemption 6. FOIA Exemption 6 protects from disclosure personally identifiable information, when disclosure of the information would constitute an unwarranted intrusion of a personal privacy interest.

If you disagree with my determination to withhold information under FOIA Exemptions 4 and 6, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:
Email Address: vhafaoia2@va.gov
Phone Number: (877) 461-5038

Office of Government Information Services (OGIS)
Email: ogis@nara.gov
Fax: (202) 741-5769

Mailing address: Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

Torres Consulting
FOIA Request: 20-01005-F
November 14, 2019

This letter concludes the administrative processing of your FOIA request. Should you have any questions, please feel free to contact me (816) 701-3009 or by e-mail at VISN15.FOIA@va.gov.

Sincerely,



Laura Hughes
HIMS, Privacy/FOIA, Record
Manager
VA Heartland Network

Encl: Project schedule/timeline (3-pages)
Subcontractor List (1-page)

VA



U.S. Department of Veterans Affairs

Veterans Health Administration
VA Heartland Network - VISN 15

1201 Walnut Street
Suite 800
Kansas City, MO 64106

November 1, 2019

Ms. Leslie Schimelpfenig
Compliance Specialist
Torres Consulting and Law Group, LLC
2239 W. Baseline RD.
Tempe, AZ 85283
E-mail: leslie@thetorresfirm.com

In Reply Refer To
FOIA Request: **19-01995-F**

Dear Ms. Schimelpfenig,

This letter completes the initial agency response to your October 1, 2018 request for agency records pursuant to the Freedom of Information Act (FOIA) 5 U.S.C. § 552.

Your electronic FOIA request was received by the Veteran's Integrated Service Network (VISN) 15 FOIA Office on October 1, 2018 and assigned FOIA reference number 19-01995-F. Please reference this number in future communications with us regarding this FOIA request.

In your electronic FOIA Request, you stated:

"Project Name: Upgrade Emergency Department (PN589A5-15-115)
Location: Topeka, Kansas
Contract Number: 36C255-18-C-0172
General Contractor: Hernandez Consulting

We formally request the following information for the above-referenced project:

1. Notice to Proceed
2. Current construction schedule/project timeline
3. Designated wage determination incorporated into project contract
4. Subcontractors list
5. Copy of the subcontractors Statement and Acknowledgment (SF-1413) "

On December 12, 2018 I wrote to you, acknowledging receipt of your perfected FOIA request and, outlining our next steps to process your record request, to include my initial determination as a rolling record response.

In my December 12th correspondence the results of the Network Contracting Office (NCO15) search for records potentially responsive to your record request were discussed.

Torres Consulting
FOIA Request: 19-01995-F
November 1, 2019

At the conclusion of NCO15's reasonable search of electronic paper record systems, and e-mail accounts for contract no. 36C255-18-C-0172, and/or vendor Hernandez Consulting, and/or Topeka Emergency Department (ED) Renovation (Reno); five (5) agency records totaling 18- pages were identified responsive to your request.

Of the five (5) records identified, two (2) of the five (5) records were analyzed and released as a partial grant/denial on December 12, 2018. Specifically, the Notice to Proceed and Designated wage determination incorporated into project contract were released. The remaining three (3) records were determined to contain information which falls within the disclosure prohibition of FOIA Exemption 4. FOIA Exemption 4 requires the VA by Executive Order 12,600 to notify the submitter of the record(s) of a FOIA request. The notification process must offer the submitter an opportunity to object to the disclosure of the record(s) in whole or in part. In notifying the submitter of this opportunity, the submitter is advised of their responsibility to provide a factual explanation of how substantial competitive harm would likely to result from disclosure of the records to the FOIA requestor. A copy of the regulation is available at: http://www.foia.va.gov/FOIA_Regulations_1550.asp. I explained the submitter notification process had been initiated, and I would write to you at the conclusion of that process with the initial agency response to the remaining three (3) items in your record request. This process has been completed.

After consideration of the evidence available to me, I have concluded the records responsive to your request for (a) construction schedule/project timeline, (b) subcontractor list, and (c) subcontractors Statement and Acknowledgment (SF-1413); contain confidential commercial information, and personally identifiable information subject to protection under FOIA Exemptions 4 and 6. The remaining records responsive to your record request are released as a partial grant/denial as detailed below.

Construction schedule/project timeline: 2 of 2 pages were found to contain commercial confidential aka 'private' information which if disclosed would factually and reasonably be likely to compromise Hernandez Consulting, a privately-owned company, competitive market position. Analysis of the record supports classification of the record as proprietary commercial property created and submitted to the VA by Hernandez Consulting. The record is not the property of the VA nor does the record shed light on how the agency does business. Based on this analysis it is my opinion that disclosure of the private commercial record to include task, sequence, priority of tasks, and timelines would likely harm both Hernandez Consulting and the VA, revealing proprietary private business property the submitter developed at their own cost; and would undermine VA's ability to solicit fair and reasonable responses to construction projects in the future. In making the decision to withhold Hernandez Consulting's project schedule and timeline, I also relied upon the impairment prong of FOIA Exemption 4, 5 U.S.C § 552, b(4). Two-pages are released with redaction of task, path and timeline.

Torres Consulting
FOIA Request: 19-01995-F
November 1, 2019

Subcontractor List: one record, 2-pages was found responsive to your request. The record is withheld in full under FOIA Exemption 4. Again, we considered the impairment prongs of b(4), and found the information submitted by Hernandez Consulting to be a record created as part of Hernandez Consulting's commercial interest, and not for the VA. Disclosure of Hernandez Consulting's list of subcontractors we believe would reveal commercial information likely to jeopardize Hernandez' ability to perform and complete competitively in the market. 2-pages congaing the names and address of commercial sub-contractors is withheld in full under Exemption 4 and Exemption 6. FOIA Exemption 6 protects from disclosure personally identifiable information, when disclosure of the information would constitute an unwarranted intrusion of a personal privacy interest.

Subcontractors Statement and Acknowledgment (SF-1413): 8pages are released as a partial grant/denial. The names and contact information of all subcontractors are withheld under b(4) and b(6) as applied above,

If you disagree with my determination to withhold information under FOIA Exemption 4, please be advised you may appeal to:

Office of the General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420
Email: ogcfoiaappeals@va.gov

If you should choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

You may also seek assistance and/or dispute resolution services for any other aspect of your FOIA request, excluding the release determination, from VHA's FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:
Email Address: vhafioa2@va.gov
Phone Number: (877) 461-5038

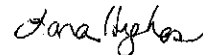
Office of Government Information Services (OGIS)
Email: ogis@nara.gov
Fax: (202) 741-5769

Torres Consulting
FOIA Request: 19-01995-F
November 1, 2019

Mailing address: Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

This letter concludes the administrative processing of your FOIA request. Should you have any questions, please feel free to contact me (816) 701-3009 or by e-mail at VISN15.FOIA@va.gov.

Sincerely,



Laura Hughes
HIMS, Privacy/FOIA, Record
Manager
VA Heartland Network

Encl: Project schedule/timeline (2-pages)
SF-1413 (8-pages)

Exhibit H



Israel G. Torres
James E. Barton II
Jacqueline M. Soto

Delivered Via USPS Mail

December 12, 2019

U.S. Department of Veterans Affairs
Office of General Counsel (024)
810 Vermont Avenue NW
Washington, DC 20420

**RE: APPEAL UNDER THE FREEDOM OF INFORMATION ACT
OGC CASE #138307**

March 25 2019 Request, FOIA acknowledgement not received
Project Name: Upgrade Emergency Department (PN589A5-15-115)
Location: Topeka, Kansas
Contract Number: 36C255-18-C-0172
General Contractor: Hernandez Consulting

May 15 2019 Request, FOIA #20-01005-F
Project Name: Renovate 2nd Floor for Veterans Crisis Line
Location: Topeka, Kansas
Contract Number: 36C255-19-C-0049
General Contractor: WFV 3 Construction

Dear Counsel,

We represent Torres Consulting and Law Group (“TCLG”) in this administrative appeal relating to the two overdue Freedom of Information Act Requests named above. In your letter dated November 19, 2019, you reported closing TCLG’s October 4, 2019 FOIA Appeal because Laura Hughes, FOIA Officer for the VA Heartland Network, had provided you with copies of her letter sent to Ms. Schimelpfenig of TCLG. Presumably, your office viewed Ms. Hughes’s response letters as mooted our appeal.

Unfortunately, this closure was premature because Ms. Hughes provided the requested information to FOIA #20-01005-F, but no information to the above March 25,

2019 FOIA Request. (Although she did provide the final response to a FOIA request that was submitted on October 1, 2018, FOIA 19-01995-F.)

For the sake of clarity, the outstanding request, which TCLG submitted on March 25, 2019 (216 days from the date of this writing), requested:

1. "All certified payroll records for the trade work of Electrician.

TCLG specifically does not request the following fields of information contained within certified payroll records: employee name, employee address and employee social security number. TCLG maintains that employee name, employee address and employee social security number are to be redacted in accordance with FOIA Exemption (b)(6) so that the remaining fields of information provided on the certified payroll records can be produced absent creating an unwarranted invasion of personal privacy.

2. Contractor fringe benefit statement(s) including, if applicable, apprentices"

This FOIA Request was never acknowledged by Ms. Hughes, even after Ms. Schimelpfenig sent follow up emails on November 5th, November 19th, November 25th, and December 3rd. Per Ms. Hughes's email response dated November 19th, "Thank you I will follow-up with you tomorrow." No response has been received since that communication.

As you know, FOIA requires a determination by the agency within 20 day of receipt of a request. 5 U.S.C. § 552(a)(6)(i). VA has failed to provide a determination within the 20 days. Please treat this letter as a new appeal of the constructive denial of the March 25, 2019 FOIA request (or alternatively a request to reopen the previously closed appeal). Thank you for your time and attention to this matter. Please contact me if you have any questions.

Sincerely,

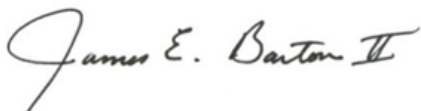

James E. Barton II

Exhibit I

RECEIVED APR 10 2020

VA



U.S. Department of Veterans Affairs
Office of General Counsel
Information and Administrative Law Group

810 Vermont Avenue NW
Washington DC 20420
www.va.gov/ogc

In Reply Refer To: 024J
OGC Case #: 141207
FOIA Tracking #: 20-02577-F

April 2, 2020

Mr. James E. Barton II
Torres Law Group PLLC
2239 West Baseline Road
Tempe, AZ 85283

Dear Mr. Barton:

This letter is in response to your letter dated December 12, 2019, addressed to Counsel.

Procedural History

Initial Request You wrote to Ms. Laura Hughes, FOIA Officer, on March 25, 2019, regarding the "Upgrade Emergency Department (PN589A5-15-115), Topeka, Kansas, Contract # 36C255-18-C-0172; General Contractor: Hernandez Consulting" requesting "all certified payroll records for the trade work of Electrician" and "Contractor fringe benefit statement(s) including, if applicable, apprentices."

Appeal In your December 12, 2016, appeal letter addressed to the Office of General Counsel, you provided a background narrative for your request, distinguishing the March 25, 2019, request from FOIA Tracking #20-01005-F, the latter of which we had previously addressed and administratively closed under OGC Case #138307. With respect to the March 25, 2019, request, you informed us that no Initial Agency Decision had been issued.

Analysis We have considered your appeal under the provisions of the FOIA which provides that federal agencies must disclose information upon request, unless one or more of nine statutory exemptions applies (5 U.S.C. § 552(b)). Processing an appeal requires a de novo review of the Initial Agency Decision.

2.

Mr. James E. Barton II

Following receipt of your appeal, we contacted FOIA Officer Hughes requesting a complete copy of her administrative record as well as any actions she may have taken with respect to your request. Although Ms. Hughes indicated she had recently spoken with Ms. Leslie Schimelpfenig of your office regarding this matter, Ms. Hughes also indicated that she had not yet begun to process the March 25, 2019, request, and therefore no Initial Agency Decision had been issued in response to your request.

Since the request remains in process at the initial stage, we expect that it may take additional time for the initial processing to be completed. Based upon the foregoing, we cannot process your appeal and must, therefore, remand it back to the FOIA officer for continuing consideration and appropriate processing.

Ultimately, should you disagree with the response once the subsequent initial agency decision is rendered, you may renew your appeal by writing to the Office of General Counsel (024), 810 Vermont Avenue, NW, Washington, DC 20420. Please include the above referenced case number on any future communication in this regard. To the extent that you consider this letter to be a denial to provide responsive information, the FOIA requires us to advise you that if you believe the Department erred in this decision, you have the right to file a complaint in an appropriate United States District Court.

Conclusion This case is remanded back to the FOIA Officer to further consider your request; search for and process all responsive information, including utilizing the predisclosure notification process, if necessary; and issue a subsequent Initial Agency Decision.

Mediation and Appeal Rights As part of the 2007 FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services. Similarly, as part of the FOIA Improvement Act of 2016, VA established a FOIA Public Liaison to offer mediation services. Both OGIS and the VA Public Liaison will assist in resolving disputes between FOIA requesters and VA as a non-exclusive alternative to litigation. Using OGIS or the VA FOIA Public Liaison does not affect your right to pursue litigation. You may contact OGIS or the VA Public Liaison in any of the following ways:

3.

Mr. James E. Barton II

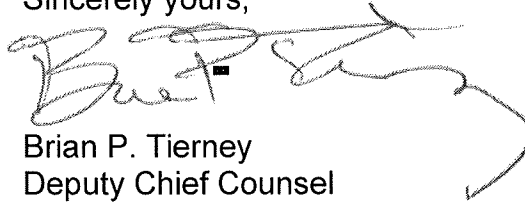
Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

VA FOIA Public Liaison
Doloras Johnson
VA FOIA Service
810 Vermont Avenue, NW (005R1C)
Washington, DC 20420

E-mail: vacofoiaservice@va.gov
Telephone: 1-877-750-3642
Facsimile: 202-632-7581

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brian P. Tierney", with a long, sweeping flourish extending to the right.

Brian P. Tierney
Deputy Chief Counsel
Information & Administrative Law Group

CC: Laura Hughes, VISN 15 FOIA Officer, Kansas City VAMC
Doloras Johnson, VA Public Liaison
Michael Sarich, VHA VACO FOIA Director 10A7B

Exhibit J



Via Electronic Mail – Delivery and Read Receipt Requested

December 11, 2019

U.S. Department of Veterans Affairs
Attn: Laura Hughes, FOIA Officer
1201 Walnut Street, Suite 800
Kansas City, MO 64106
Laura.Hughes3@va.gov
Visn15.foia@va.gov

RE: FREEDOM OF INFORMATION ACT REQUEST

Project Name: Renovate 2nd Floor for Veterans Crisis Line, 589A5-18-135
Location: Topeka, Kansas
Contract Number: 36C255-19-C-0049, obligation 589-C92136
General Contractor: WFV 3 Construction, LLC

Dear Ms. Hughes:

Torres Consulting and Law Group, LLC (TCLG) submits this FOIA Request on behalf of the International Brotherhood of Electrical Workers (IBEW), a recognized 501(c)(5) non-profit organization.

To achieve the goals promulgated under the Davis-Bacon and Related Acts (DBRA), an analysis of the pertinent project information, including contract information and certified payrolls, is performed to ensure that compliance with DBRA is mandated and enforced.

We formally request the following information for the above-referenced project:

1. Notice to Proceed (Construction)
2. All certified payroll records for the trade work of Electrician


TCLG specifically does not request the following fields of information contained within certified payroll records: employee name, employee address and employee social security number. TCLG maintains that employee name, employee address and employee social security number are to be redacted in accordance with FOIA Exemption (b)(6) so that the remaining fields of information provided on the certified payroll records can be produced absent creating an unwarranted invasion of personal privacy.

3. Contractor fringe benefit statement(s) including, if applicable, apprentices

If an assessment of fees for the processing of this request exceeds \$25.00, please inform me prior to additional fees being incurred. Please send all requested information by email.

If you have any questions or concerns regarding any aspect of this request, please do not hesitate to contact me directly. Thank you in advance for your prompt attention and help in regards to this request.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Schimelpfenig". The signature is written in black ink and is positioned above the printed name.

Leslie Schimelpfenig

Exhibit K

From: Leslie Schimelpfenig
Sent: Thursday, April 23, 2020 8:31 AM
To: 'visn15.foia@va.gov'
Cc: 'Laura.Hughes3@va.gov'
Subject: RE: FOIA 20-02720-F

Good morning. I'm just checking in on this again since I haven't received any new updates.

Thank you,
Leslie

From: Leslie Schimelpfenig
Sent: Thursday, March 26, 2020 9:46 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>
Cc: 'Laura.Hughes3@va.gov' <Laura.Hughes3@va.gov>
Subject: RE: FOIA 20-02720-F

Hello Ms. Hughes. I'm just checking in on this again, FOIA 20-02720-F. We were advised by the Office of General Counsel that you are working on it.

Please advise.

Thank you,
Leslie

From: Leslie Schimelpfenig
Sent: Wednesday, January 22, 2020 10:17 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>
Cc: 'Laura.Hughes3@va.gov' <Laura.Hughes3@va.gov>
Subject: FW: FOIA Request_Renovate 2nd Floor for Veterans Crisis Line, 589A5-18-135

Good afternoon. Please advise on the status of the attached FOIA request, submitted on 12/11/2019. To date, an acknowledgement has not been received.

Thank you,
Leslie

From: Leslie Schimelpfenig
Sent: Wednesday, December 11, 2019 10:16 AM
To: 'visn15.foia@va.gov' <visn15.foia@va.gov>
Cc: Laura.Hughes3@va.gov
Subject: FOIA Request_Renovate 2nd Floor for Veterans Crisis Line, 589A5-18-135

Good morning. Attached please find a new FOIA Request. Should you need any additional information for processing, please do not hesitate to contact me.

Thanks and have a great day!
Leslie

Leslie Schimelpfenig
Torres Consulting & Law Group
2239 W. Baseline Road
Tempe, AZ 85283
Office: (602) 626-8805
Cell: (520) 858-2482
leslie@thetorresfirm.com
www.THETORRESFIRM.COM



****I will be out of the office from December 20th through December 30th****



Exhibit L



Israel G. Torres
James E. Barton II
Jacqueline M. Soto

Delivered Via USPS Mail

February 24, 2020

U.S. Department of Veterans Affairs
Office of General Counsel (024)
810 Vermont Avenue NW
Washington, DC 20420

RE: APPEAL UNDER THE FREEDOM OF INFORMATION ACT

December 11, 2019 Request, FOIA acknowledgement not received
Project Name: Renovate 2nd Floor for Veterans Crisis Line
Location: Topeka, Kansas
Contract Number: 36C255-19-C-0049
General Contractor: WFV 3 Construction

Dear Counsel,

We represent Torres Consulting and Law Group (“TCLG”) in this administrative appeal relating to the overdue Freedom of Information Act Request named above. The U.S. Department of Veterans Affairs (“VA”) is in violation of the Freedom of Information Act (“FOIA”) 5 U.S.C. § 552 for violating the time limits found therein. Under FOIA, violations of time limits can be treated as constructive denials that trigger appeal rights. By this letter, we appeal the constructive denial.

The Request at Issue

On December 11, 2019, TCLG submitted a FOIA request for the following information for the above captioned project:

1. Notice to Proceed (Construction)
2. All certified payroll records for the trade work of Electrician

TCLG specifically does not request the following fields of information contained within certified payroll records: employee

name, employee address and employee social security number. TCLG maintains that employee name, employee address and employee social security number are to be redacted in accordance with FOIA Exemption (b)(6) so that the remaining fields of information provided on the certified payroll records can be produced absent creating an unwarranted invasion of personal privacy.

3. Contractor fringe benefit statement(s) including, if applicable, apprentices”

VA's Undue Delay in Violation of FOIA

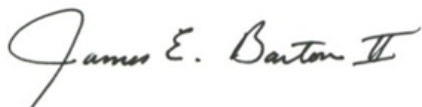
TCLG has not received any formal acknowledgement or tracking number for this FOIA request. Additionally, TCLG reached out on January 22, 2020 asking for a status update. The email was “read” by James Cooper but a response was not received by either Mr. Cooper or FOIA Officer Laura Hughes.

Conclusion

As you know, FOIA requires a determination by the agency within 20 day of receipt of a request. 5 U.S.C. § 552(a)(6)(i). VA has failed to provide a determination within the 20 days; therefore, we appeal this constructive denial.

Thank you for your time and attention to this matter. Please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "James E. Barton II".

James E. Barton II

Exhibit M



U.S. Department of Veterans Affairs
Office of General Counsel
Information and Administrative Law Group

810 Vermont Avenue NW
Washington DC 20420
www.va.gov/ogc

RECEIVED MAR 09 2020

In Reply Refer To:

024H/IALG
OGC Case No. 144119
FOIA No.: 20-02720-F

March 4, 2020

Mr. James E. Barton II
Torres Law Group, PLLC
2239 W. Baseline Road
Tempe, AZ 85283

Dear Mr. Barton:

This letter is in response to your appeal under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, concerning your client Torres Consulting and Law Group's December 11, 2019, request for information from the Department of Veterans Affairs Heartland Network (VISN 15). On February 24, 2020, you appealed to us stating that the VA Heartland Network has failed to respond to your FOIA request.

Please be advised that this office contacted the FOIA Officer with the VA Heartland Network. Upon, e-mail communication, the FOIA Officer stated that she will be contacting you shortly and at this time, the FOIA Officer is continuing to work on providing you a response.

In light of the above, we are treating your appeal as closed and are taking no further action on this case. If you are not satisfied with the documents you received from the VA Heartland Network's Office, please respond to this office and will re-open this appeal.

Sincerely,

Greg Draves
Government Information Specialist