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Description of document: Department of Transportation (DOT) records provided to Chairman Darrell Issa, House Oversight and Government Reform Committee, concerning the administration of the Freedom of Information Act (FOIA), 2011

Requested: 10-December-2011

Released date: 15-December-2011

Posted date: 07-May-2012

Source of document: Freedom of Information Act Request
US Department of Transportation
Kathy Ray
1200 New Jersey Ave., SE
W94-122
Washington, DC 20590
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Note: This is one of several files on the same subject for various agencies available on governmentattic.org. See: <http://www.governmentattic.org/5docs/chairmanIssa.htm>

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**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

GENERAL COUNSEL

1200 New Jersey Avenue, SE
Washington, DC 20590

December 15, 2011

File No. **FY 2012-060**

This is in response to your Freedom of Information Act (FOIA) request dated December 10, 2011. You requested “a copy of any correspondence whatsoever sent to Chairman Issa’s office on the subject of the January 2011 inquiry for FOIA-related records from the Department of Transportation, and any correspondence sent during calendar year 2011 to Chairman Issa’s office on the subject of FOIA.”

In accordance with the FOIA, 5 U.S.C. 552, enclosed is the Department’s February 15, 2011 letter to Chairman Issa. There were four attachments to that letter: (1) DOT’s February 2011 Chief FOIA Officer Report; (2) DOT’s FY 2010 annual statistical report; (3) an order to pay attorney fees; and (4) a CD-ROM containing Excel spreadsheets containing approximately 60,000 records.

Attachments 1 and 2 are already publicly available and easily accessible, so I am not including them with this response. Attachment 3 is enclosed, and we are currently reviewing and redacting the records for Attachment 4 for another FOIA requester. We expect the redacted spreadsheets to be ready by the end of the fiscal year. Those records will be provided to you when they are ready, as a follow-up response.

If you have any questions, please call me at (202) 366-5546.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Ray".

Kathy Ray
FOIA Officer

Enclosures



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

GENERAL COUNSEL

1200 New Jersey Avenue, SE
Washington, DC 20590

February 15, 2011

The Honorable Darrell Issa
Chairman, Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Issa:

In my capacity as the Chief Freedom of Information Act (FOIA) Officer for the Department of Transportation (DOT), I am responding to your January 25, 2011, letter to Departmental FOIA Officer Kathy Ray. Your letter, received electronically on January 27, 2011, requested as follows:

1. Provide your agency's FOIA log(s) for the five years preceding the date of this letter, in Microsoft Excel or a similar format that allows sorting by column or information category, including at least the following information: (a) the name of the requester; (b) the date of the request; (c) a brief description of the documents or records sought by the request; (d) any tracking number assigned to the request by your agency pursuant to Section 7 of the OPEN Government Act of 2007; (e) the date the request was closed, if it is not still outstanding; (f) whether any records were provided in response to the request; and (g) any additional identification number or code assigned to the request by your agency for internal use.
2. On each log provided in response to Request No. 1, identify each FOIA request to your agency that was submitted more than 45 days prior to the date of this letter and to which your agency has not yet issued a complete and final response.
3. For each FOIA request identified in response to Request No. 2, provide all communications between your agency and the requestor.
4. Identify any federal judicial action in which your agency, within the five years preceding the date of this letter, has been ordered by the court to pay any attorneys' fees or other litigation costs incurred by a FOIA requestor under 5 U.S.C. § 552(a)(4)(E) or under any similar law or regulation.

5. For each federal action identified in response to Request No. 4, provide a copy of the court order requiring your agency to pay attorneys' fees or other litigation costs.

I want to assure you that DOT is embracing and implementing the Administration's new FOIA guidance and spirit of openness. Since the issuance of the President's FOIA Memorandum dated January 21, 2009, the Attorney General's FOIA Memorandum dated March 19, 2009, the Open Government Directive dated December 8, 2009, and most recently the Chief of Staff and White House Counsel's FOIA Memorandum dated March 16, 2010, DOT, under my leadership, has continued to implement improvements throughout its FOIA program.

For example, in December 2009, we presented a well-attended FOIA briefing, which highlighted the new FOIA guidance, for all Administration officials at DOT. In daily interactions between DOT's FOIA offices and their various program offices, there is an increased emphasis on openness with regard to specific FOIA requests or issues. The FY 2009 FOIA Annual Report showed a 12 percent decrease in the backlog of initial requests since the FY 2008 FOIA Annual Report. The FY 2010 annual report shows an additional 38 percent decrease in the backlog of initial requests and a 12.5 percent decrease in the backlog of administrative appeals from FY 2009 to FY 2010. In addition, the timeliness of responses has improved from FY 2009 to FY 2010. In FY 2009, DOT responded to 59.22 percent of requests within 20 working days and 79.67 percent within 40 working days. In FY 2010, DOT responded to 63.62 percent of requests within 20 working days and 84.03 percent of requests within 40 working days.

Enclosed for your convenience are hard copies of my February 2011 Chief FOIA Officer Report to the Department of Justice (DOJ) and DOT's FY 2010 annual statistical FOIA report. The reports provide a great deal of data on DOT's handling of FOIA requests, and show that DOT is making good progress in reducing backlogs, making proactive disclosures, applying the presumption of openness, and ensuring that DOT has effective systems in place to respond to FOIA requests.

Also enclosed is a CD-ROM containing the following information you requested, in the requested format, on approximately 60,000 FOIA cases:

Request No. 1: The requested log information for fiscal years (FY) 2006 through late January/early February 2011 for the following DOT components:

- Federal Aviation Administration (FAA)
- Federal Highway Administration (FHWA)
- Federal Motor Carrier Safety Administration (FMCSA)
- Federal Railroad Administration (FRA)
- Federal Transit Administration (FTA)

- Office of the Inspector General (OIG)
- Office of the Secretary for Transportation (OST)
- Maritime Administration (MARAD)
- Pipeline and Hazardous Materials Safety Administration (PHMSA)
- St. Lawrence Seaway Development Corporation (SLSDC)

The following two DOT components, which do not have information for FY 2006 and FY 2007 in a database, were able to readily provide information only for FY 2008 through late January/early February:

- National Highway Traffic Safety Administration (NHTSA)
- Research and Innovative Technology Administration (RITA)

Based on the numbers of requests received in FY 2008 through FY 2010, we estimate that NHTSA would have approximately 400 FOIA requests in FY 2006 and FY 2007 combined, and that RITA would have approximately 50 FOIA requests in FY 2006 and FY 2007 combined. Because these files are not contained in a database, it would be burdensome for the current FOIA staff to pull together the information for those two fiscal years in a log-type format. Furthermore, many of the FOIA files for that timeframe may not be available. In instances where full releases were made, the records may have been properly destroyed in accordance with approved records disposition schedules.

Request No. 2: Responsive log information is included for all DOT components.

Request No. 3: The complete information in Request No. 3 is not enclosed at this time, as we discussed with Hudson Hollister. Many of the records included in Request No. 3, including incoming FOIA requests and corresponding acknowledgement letters, would prove repetitive and yield information duplicative of data found in the logs we are providing in response to Request No. 2. We appreciate your office's willingness to consider the burden on our program offices in responding to this request. Providing the additional information requested in Request No. 3 would be extremely burdensome and have a significant impact on DOT's ongoing ability to process FOIA requests. (We have already spent over 100 hours compiling data for Request Nos. 1, 2, 4, and 5.) The files containing the requested records are located in offices throughout the country. Please let me know if, after reviewing the enclosed data, there is additional information that you would like us to provide. We look forward to continuing to work with you in this area.

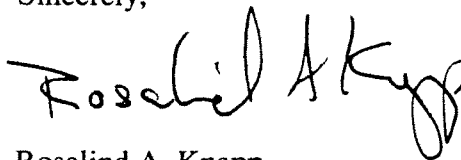
Request Nos. 4 and 5: There is only one instance during the requested timeframe where DOT was ordered to pay attorney fees related to a FOIA request; that order is attached.

Please note that the OIG redacted privacy protected names and information to protect the confidentiality of complainants and/or targets, and to ensure no violation of Section 7 of the Inspector General Act. Because of the redactions, the OIG's information is not in Excel format. Please also note that there is information contained in the FOIA logs of DOT's remaining eleven components, such as the names of first-party requesters and the names of certain individuals in the subject field, which we would not release under FOIA. We respectfully ask that you protect this information to prevent, in the words of FOIA, an unwarranted invasion of personal privacy.

I hope the information provided in this letter demonstrates that DOT takes FOIA requests very seriously, and has made significant improvements in responding to those requests consistent with the Administration's direction. We appreciate your interest in this area, and will continue to strive for excellence in DOT's FOIA program.

If you have any questions or concerns, or would like more information on DOT's FOIA program, please have your staff contact Kathy Ray at (202) 366-5546.

Sincerely,

A handwritten signature in black ink that reads "Rosalind A. Knapp". The signature is written in a cursive style with a large, stylized initial "R".

Rosalind A. Knapp
Deputy General Counsel

Enclosures

cc:

The Honorable Elijah Cummings
Ranking Member, Committee on Oversight and Government Reform

FILED

NOV 05 2008

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

QUALITY CONTROL SYSTEMS, CORP.,)
)
Plaintiff,)
)
v.)
)
UNITED STATES DEPARTMENT OF)
TRANSPORTATION,)
)
Defendant.)
_____)

Civil Action No. 07-590 (ESH)

JOINT STIPULATION OF SETTLEMENT AND VOLUNTARY DISMISSAL

The parties to this action, Quality Control Systems, Corp. ("Plaintiff"), and the United States Department of Transportation ("Defendant"), hereby enter into the following Joint Stipulation of Settlement and Voluntary Dismissal ("Stipulation") in order to resolve the matters in dispute in the above-styled action without further expense or delay, and accordingly do unconditionally agree to the following terms:

1. Plaintiff and Defendant enter into this Stipulation in order to make full and final settlement of any and all matters that Plaintiff raised or could have raised in this action. Plaintiff agrees to accept the terms set forth herein in full satisfaction of any and all claims, demands, rights and causes of action of any nature based upon and related to this cause of action and its request under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") that is the subject of the Complaint, including but not limited to all claims asserted or that could have been asserted in the above-styled action.

2. Defendant shall, subject to the conditions and limitations set forth herein, promptly pay the amount of Four Thousand Dollars (\$4,000.00) to Plaintiff and its counsel. This

payment may be made either by a check drawn on the Treasury of the United States and made payable to David L. Sobel, Esq. or by an electronic transfer of funds to a bank account specified by Plaintiff's counsel. This payment represents a compromise on the reasonable attorney's fees and costs incurred in this litigation. Plaintiff and Plaintiff's counsel also agree to cooperate with Defendant's counsel in providing reasonable information needed for requesting payment and transmission of funds.

3. This Stipulation shall constitute the full and complete satisfaction of all Plaintiff's claims arising from the allegations set forth in the complaint filed in this action. By entering this Stipulation, Plaintiff also waives, releases and abandons any and all claims, whether asserted or unasserted, against the Defendant or its agents or employees, that arose out of the FOIA request that is the subject of the Complaint. This Stipulation includes all of Plaintiff's claims for attorney's fees and costs incurred in connection with the administrative process, the District Court litigation process and any other proceedings involving the claims raised in this action.

4. Plaintiff agrees not to institute any other actions, charges, complaints, appeals or other proceedings against Defendant or any of Defendant's past or present employees, officers, agents or representatives concerning any matter encompassed by the waiver and release of claims set forth herein.

5. The undersigned represent and warrant that they are fully authorized to enter into this Stipulation.

6. Execution of this Stipulation shall not constitute a finding by the Court or an admission by the Defendant that it improperly withheld any information being sought under the

FOIA as alleged in the Complaint or otherwise, or that there was any wrongful conduct whatsoever.

7. This Stipulation, when executed by Plaintiff's counsel and counsel for the Defendant and filed with the Court shall constitute a dismissal of this action with prejudice pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, except that the Court shall retain jurisdiction to resolve any claims of noncompliance with the terms of this Stipulation.

8. This Stipulation shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

9. The parties understand that this Stipulation contains the entire agreement between Plaintiff and Defendant; that no promise or inducement has been made except as set forth herein; and that no representations, oral or otherwise, between Plaintiff and Defendant, or their respective counsel, not included herein shall be of any force or effect.

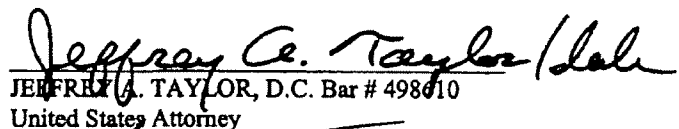
IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, through their respective counsel of record, have stipulated and agreed to the foregoing as of the 3rd day of November, 2008.

Respectfully submitted,



DAVID L. SOBEL, D.C. Bar #360418
1875 Connecticut Avenue, N.W.
Suite 650
Washington, D.C. 20009
(202) 246-6180

Attorney for Plaintiff



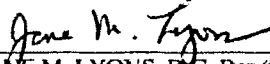
JEFFREY A. TAYLOR, D.C. Bar # 498610
United States Attorney


RUDOLPH CONTRERAS, D.C. Bar # 434122
Assistant United States Attorney



Name: R. A. Whitfield
Title: President

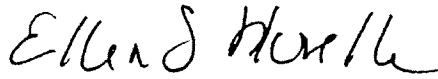
Plaintiff Quality Control Systems, Corp.



JANE M. LYONS, D.C. Bar # 451737
Assistant United States Attorney
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Attorneys for Defendant

SO ORDERED:



ELLEN SEGAL HUVELLE
UNITED STATES DISTRICT JUDGE

Date: 11/4/08