



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT PROGRAM

November 3, 2016

In reply refer to: FOIA #BPA-2016-00804-F

Tim Newsom
Visionary Systems, LLC
11675 SW Graven St
Tigard, OR 97224

Mr. Newsom:

This letter is in reference to your Freedom of Information Act request received in our office on April 18, 2016, which we acknowledged on April 25, 2016. In a letter dated May 17, 2016, we explained the complex nature of the case.

You requested:

“[A] complete copy of all source code and design documentation for the Dynamic Debt Repayment System.

The design documentation consists of Visio diagrams and word documents that describe the operation and design of the system at all levels, including context, sequence diagrams, flow charts, etc. These files are stored in SharePoint or on a file share.

The source code consists of all solution files, project files, aspx web files javascript files, c# code files, database schema files and the necessary initialization script to make the database system functional prior to the import of debt for the first time, etc. These source files used to be stored in a subversion source code repository, but may have been migrated to TFS. I would like the most recent version of the code and documentation.”

Response:

We conducted a search of the SharePoint and TFS source code Repository. We have located 1,168 files of material responsive to your request. We are releasing 1,167 files in full and withholding one file consisting of 471 pages under Exemption (b)(5). In addition, we are partially redacting 6 pages under Exemption (b)(6).

The Freedom of Information Act generally requires the release of all government records upon request. However, FOIA permits withholding certain, limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)).

Exemption 5

Exemption 5 protects records that reflect the deliberative or decision-making processes of

government agencies, including draft materials and internal discussions. Records protected under Exemption 5 must be both “pre-decisional” and “deliberative.” A record is pre-decisional if it is “generated before the adoption of an agency policy” (*Judicial Watch, Inc. v. FDA*, 449 F.3d 141, 151 (D.C. Cir. 2006)). A record is deliberative if it “reflects the give-and-take of the consultative process,” either by assessing the merits of a particular viewpoint, or by articulating the process used by the agency to formulate a decision (*Coastal States Gas Corp. v. DOE*, 617 F.2d 854, 867 (D.C. Cir. 1980)). The general purpose of Exemption 5 is to “prevent injury to the quality of agency decisions” (*NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 151 (1975)). Specifically, Exemption 5 exists to: (1) encourage open, frank discussions on matters of policy between subordinates and superiors; (2) protect against premature disclosure of proposed policies before they are actually adopted; and (3) protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency’s action (*Coastal States Gas Corp. v. DOE*, 617 F.2d 854, 866 (D.C. Cir. 1980)). We have used Exemption 5 to protect a single internal draft message. Disclosure of this draft material would have a chilling effect on future BPA discussions, and we decline to discretionarily release this material.

Exemption 6

Exemption 6 protects information in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. § 552(b)(6)). The application of Exemption 6 requires balancing an individual’s privacy interests against the public interest in the information. The concept of privacy “includes the prosaic . . . as well as the intimate and potentially embarrassing” (*Painting & Drywall Work Pres. Fund, Inc. v. HUD*, 936 F.2d 1300, 1302 (D.C. Cir. 1991)). Records responsive to your request include personal comments not work-related. We find that there is a privacy interest in each of these types of items.

BPA weighs this privacy interest against the public interest in the disclosure of the information. The only public interest at issue in a FOIA case is “open[ing] agency action to the light of public scrutiny” (*Dep’t of the Air Force v. Rose*, 425 U.S. 352, 372 (1976)). Public interest only exists when information sheds light on how BPA performs its duties as a nonprofit federal power marketing administration. Because the personal comments in these records do not reflect official positions or considerations, they do not shed light on BPA’s performance of its duties. Additionally, said material adds no meaningful information about how the agency operates. Therefore, we have redacted these items under Exemption 6. Information that falls under Exemption 6 cannot be discretionarily released; the right of privacy belongs to the individual, not to the agency.

The FOIA requires that “any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt,” 5 U.S.C. § 552(b). As a result, a redacted version of the document is being released to you in accordance with 10 C.F.R. § 1004.7(b)(3).

Pursuant to 10 C.F.R. Part 1004.7(b)(2), I am the individual responsible for the determination to withhold the information described above under Exemptions 5 and 6.

You may contact BPA's FOIA Public Liaison, Sarah A. Westenberg, at 503-230-4753, or at the address on this letter header for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 202-741-5770; Toll free: 1-877-684-6448; Fax: 202-741-5769

There are no fees associated with this request.

Appeal:

Pursuant to Department of Energy FOIA regulations at 10 C.F.R. § 1004.8, you may administratively appeal this response in writing within 90 calendar days. If you choose to appeal, please include the following:

- (1) The nature of your appeal - denial of records, partial denial of records, adequacy of search, or denial of fee waiver;
- (2) Any legal authorities relied upon to support the appeal; and
- (3) A copy of the determination letter.

Clearly mark both your letter and envelope with the words "FOIA Appeal," and direct it to the following address:

Director, Office of Hearings and Appeals, HG-1
L'Enfant Plaza
U.S. Department of Energy
1000 Independence Avenue SW
Washington DC 20585-1615

I appreciate the opportunity to assist you. If you have any questions, please contact Sarah A. Westenberg, Lead FOIA Case Officer/ BPA FOIA Public Liaison at (503) 230-4753.

Sincerely,



C. M. Frost
Freedom of Information/Privacy Act Officer

Enclosure: Responsive Material on USB Drive