

ST. LOUIS REQUESTER SERVICE CENTER



August 24, 2020

VIA ELECTRONIC MAIL gm@garenlaw.com

Garen Meguerian
Attorney
129 Magnolia Drive
Phoenixville, PA 19460

RE: FOIA Case No. 2020-FPRO-01682

Dear Mr. Meguerian:

This responds to your Freedom of Information Act (FOIA) request of August 16, 2020, in which you seek access to Postal Service records as follows:

1. Records from the office of the Postmaster General, the Executive Leadership Team, and the USPS Board of Governors, since May 6, 2020, concerning the following topics:
 - (a) The removal or decommissioning of sorting machines from any USPS facility; and
 - (b) The removal or decommissioning of USPS mailboxes from any location.
2. Records reflecting communications by and between the White House and the Office of the Postmaster General, since May 6, 2020, concerning the handling of ballots by mail.

Your request was received on August 17, 2020 and assigned FOIA Tracking Number 2020-FPRO-01682.

In response to your request for a waiver of fees, we decline your request for a fee waiver. Fees under the FOIA shall be waived or reduced "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). In determining whether you have satisfied this standard, we considered the six factors in the Postal Service's FOIA regulations. See 39 C.F.R. § 265.9(j). The first four of these factors concern the public interest requirement; the fifth and sixth factors concern the requirement that the requester's commercial interest in the disclosure, if any, must be less than the public interest in disclosure. Both of these statutory requirements must be satisfied before fees are waived or reduced. Per 39 C.F.R. § 265.9(j), the requester bears the burden of showing that this standard is met:

(1) The subject of the request must concern identifiable operations or activities of the Postal Service, with a connection that is direct and clear, not remote or attenuated.

(2) Disclosure of the requested records must be meaningfully informative about government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not contribute to such understanding where nothing new would be added to the public's understanding.

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3) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as the requester's ability and intention to effectively convey information to the public shall be considered. A representative of the news media does not automatically satisfy this consideration.

(4) The public's understanding of the subject in question must be enhanced by the disclosure to a significant extent.

(5) Whether there is a commercial interest, as defined in paragraph (b)(1) of this section, that would be furthered by the requested disclosure. If so, then the requester will be given an opportunity to provide explanatory information regarding this consideration.

(6) Whether any identified commercial interest of the requester in disclosure outweighs the public interest, as defined in paragraph (j)(1)(i) of this section, in disclosure. If so, then the disclosure is primarily in the commercial interest of the requester. The component ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by the requested disclosure. Disclosure to data brokers or others who merely compile and market government information for direct economic return shall not be presumed to primarily serve the public interest.

Your request failed to satisfy the listed factors.

Additionally, in response to your request for expedited processing, FOIA requests shall be processed on an expedited basis whenever it is determined that they involve: "(i) circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; (ii) an urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information." 39 C.F.R. § 265.5(c)(1). In order to be granted expedited processing of a FOIA request, you must provide information in sufficient detail to demonstrate compelling need for the records and certify this statement to be true and correct to the best of your knowledge and belief.

Here, you failed to explain how the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual. The records you requested seem to have no bearing on the life or physical safety of an individual. You are not a member of the news media and you provided no information to show that your primary professional activity is information dissemination. You also failed to "establish a particular urgency to inform the public about the government activity involved in the request – one that extends beyond the public's right to know about government activity generally." 39 C.F.R. § 265.5(c)(2). Thus, we are denying your request for expedited processing. Your request will be processed based on the order in which it was received, or in other words, on a first-in, first-out basis.

If you are not satisfied with the response to this request, you may file an administrative appeal within 90 days of the date of this response letter by writing to the General Counsel, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260 or via email at FOIAAppeal@usps.gov. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request. The letter of appeal should include, as applicable:

- (1) A copy of the request, of any notification of denial or other action, and of any other related correspondence;
- (2) The FOIA tracking number assigned to the request;
- (3) A statement of the action, or failure to act, from which the appeal is taken;
- (4) A statement identifying the specific redactions to responsive records that the requester is challenging;

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EXHIBIT
A

- (5) A statement of the relief sought; and
- (6) A statement of the reasons why the requester believes the action or failure to act is erroneous.

For further assistance and to discuss any aspect of your request, you may contact the undersigned or FOIA Public Liaison listed below:

PRIVACY AND RECORDS MANAGEMENT OFFICE
U.S. POSTAL SERVICE
475 L'ENFANT PLAZA SW RM 1P830
WASHINGTON, DC 20260-1101
Phone: (202) 268-2608
Fax: (202) 268-5353
FOIA Public Liaison:
Name: Nancy Chavannes-Battle
Phone: (202) 268-2608

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, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,



Brenda L. Rahe
Sr. Government Information Specialist