



SOUTHWEST RESEARCH AND INFORMATION CENTER
P.O. Box 4524, ALBUQUERQUE, NM 87196
505-262-1862 • 505-262-1864 (FAX) • WWW.SRIC.ORG

April 7, 2009

Vernon Daub
Alternate Freedom of Information Act/Privacy Act Public Liaison
U.S. Department of Energy
Carlsbad Field Office
P.O. Box 3090
Carlsbad, New Mexico 88221-3090

Dear Mr. Daub:

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. §552, as amended, and 10 CFR 1004.

Southwest Research and Information Center (SRIC) requests the following:
Current contracts with Visionary Solutions, LLC and CAST Specialty
Transportation Incorporated, for transportation services for the Waste Isolation
Pilot Plant (WIPP).

Requestor SRIC is a nonprofit educational and scientific organization, conducting research and communicating with the public on numerous issues, including nuclear waste management, transportation, and WIPP. SRIC disseminates information to the public in many ways, including through our publication, *Voices from the Earth*, which is read by thousands of people in all 50 states and which regularly covers WIPP. Our website contains many documents related to WIPP and is visited by thousands of people each month. The general public, researchers, students, and journalists use our library. The news media regularly request information from SRIC, which is published in newspapers, magazines, and websites, in New Mexico and other places. The public is currently interested in WIPP, as demonstrated by the numerous articles published about WIPP in the past two weeks, relating to WIPP, its 10th anniversary, the announcement that it would receive funding from the American Recovery and Reinvestment Act (ARRA), and correspondence that SRIC and other groups have submitted to the Department of Energy (DOE). The information provided will significantly contribute to public understanding of the activities of the government, including regarding WIPP and waste transportation, and is not for any commercial interest of the requestor. Therefore, we request a full waiver of applicable fees. 5 U.S.C. §552(a)(4)(A)(iii).

As provided by law, we request a determination as to this request within 20 days. 5 U.S.C. §552(a)(6)(A)(i).

If you regard any of the requested information as exempt from required disclosure under FOIA, SRIC requests that you exercise your discretion to disclose the information nevertheless. If the document(s) includes proprietary or other information exempt from disclosure, SRIC requests the prompt release of all portions of the document(s) that are not exempt from disclosure. If any document(s) or portions thereof are withheld, you should provide a list of what materials are withheld and for what reason in sufficient detail for an appeal of the denial

Regarding the fee waiver, the CBFO website indicates that you will consider six factors, which SRIC believes we have already addressed. However, to try to avoid any possible questions, we further provide the following responses:

1. Whether the subject of the requested record(s) concerns "the operations or activities of the government." Clearly, WIPP and its waste transportation are operations and activities of the federal government.
2. Whether the disclosure is "likely to contribute" to an understanding of government operations or activities. The disclosure of the information will contribute to an understanding of WIPP operations and transportation activities, since the information provides basic information about such transportation.
3. The contribution to an understanding by the general public of the subject likely to result from disclosure, taking into account one's ability and intent to disseminate the information to the public in a form that can further understanding of the subject matter. SRIC clearly has the ability and the intent to disseminate the information to the public, and we will do so through the multiple means of our publication, our website, our library, to the media, journalists, and researchers through direct communication.
4. Whether the disclosure is likely to contribute "significantly" to public understanding of government operations or activities. The information will contribute significantly to public understanding since there is clearly demonstrated public interest in WIPP, WIPP transportation, and the impacts of transportation on ARRA funds and the use of such funds. Moreover, because of the heightened public interest in and the openness and transparency requirements of ARRA, disclosure of the information will contribute significantly to the public better understanding WIPP transportation and its contractual requirements.
5. Whether the requester has a commercial interest that would be furthered by the requested disclosure. SRIC is a nonprofit, educational organization and has no commercial interest in the requested information.
6. The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in the disclosure, that disclosure is "primarily in the commercial interest of the requester." SRIC has no commercial interest, so it is the public interest that benefits from the disclosure.

SRIC appreciates your help in obtaining this information. Should you need further information concerning SRIC or this request, I would appreciate your immediate attempts to contact me in order to expedite this request. You may contact me at (505) 262-1862 or by e-mail to sricdon@earthlink.net.

Sincerely,

Don Hancock



Department of Energy

Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221

APR 9 2009

Southwest Research and Information Center
Attention: Don Hancock
P.O. Box 4524
Albuquerque, NM 87196

RE: Freedom Of Information Act 09-001

Dear Mr. Hancock:

This office has received your April 7, 2009, Freedom of Information Act (FOIA) request. You asked for the following: The current contracts with Visionary Solutions, LLC and CAST Specialty Transportation Incorporated, for transportation services for the Waste Isolation Pilot Plant (WIPP).

Your request has been assigned control number FOIA 09-001 for tracking purposes.

If you have any questions or need additional assistance regarding this FOIA request, please contact Ms. Sharon Warren-Briggs, FOIA contact person, at (505) 234-7406 or sharon.warren.briggs@wipp.ws. Please refer to FOIA 09-001 in any correspondence regarding this request.

Sincerely,

A black rectangular redaction box covers the signature of Vernon Daub.

Vernon Daub
Freedom of Information Act Public Liaison

cc: CBFO M&RC
FOIA File 09-001



Department of Energy

Carlsbad Field Office
P O Box 3090
Carlsbad, New Mexico 88221

MAY 04 2009

CERTIFIED MAIL-RETURN RECEIPT

Mr. Don Hancock
Southwest Research and Information Center
P.O. Box 4524
Albuquerque, NM 87196

Subject: Freedom of Information Act Request (FOIA) 09-001

Dear Mr. Hancock:

This letter is to advise you that an extension until May 19, 2009, is needed to coordinate release of the records you requested in your letter dated April 7, 2009, specifically, the current contracts for Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated for transportation services for the Waste Isolation Pilot Plant.

When processing requests for records that might contain confidential commercial or financial information, the organization that provided the information is allowed an opportunity to review the records prior to disclosure. Any objections to disclosure of information are considered by the Department of Energy in its independent determination of releasability.

If you have any questions or need additional assistance regarding this FOIA request, please contact Ms. Sharon Warren-Briggs, FOIA contact person, at (575) 234-7406 or sharon.warren.briggs@wipp.ws. Please refer to FOIA 09-001 in any correspondence regarding this request.

Sincerely,

A black rectangular redaction box covers the signature of Vernon Daub.

Vernon Daub
Freedom of Information Act Public Liaison

cc: w/o enclosures
FOIA File 09-001
CBFO M&RC



Department of Energy
Carlsbad Field Office
P. O. Box 3090
Carlsbad, New Mexico 88221

MAY 19 2009

CERTIFIED MAIL-RETURN RECEIPT

Mr. Don Hancock
Southwest Research and Information Center
P.O. Box 4524
Albuquerque, NM 87196

Subject: Freedom of Information Act Request 09-001

Dear Mr. Hancock:

This is a final release of documents in response to your April 7, 2009, Freedom of Information Act (FOIA) request. You requested the following: The current contracts with Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated for transportation services for the Waste Isolation Pilot Plant (WIPP).

We have completed a thorough search of the Department of Energy (DOE) Carlsbad Field Office (CBFO) records and have located the pertinent documents responsive to your request. Copies are enclosed, along with a list of redactions pursuant to 5 U.S.C. Section 552(b)(4) and (b)(6) (Exemptions 4 and 6 of the FOIA) and withheld personally identifiable information.

When reviewing the Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated contracts, you will find that some of the page numbers are not consistent. This is the result of pages being incorporated from other sources.

Exemption 4 of the FOIA protects "trade secrets and commercial or financial information obtained from a person (that is) privileged or confidential." This Exemption is intended to protect the interest of both the government and submitters of information. The Exemption also affords protection to those submitters who are required to furnish commercial or financial information to the government by safeguarding them from the competitive disadvantages that could result from disclosure. The Exemption covers two broad categories of information in federal agency records: (1) trade secrets and (2) information which is (a) commercial or financial, (b) obtained from a person, and (c) privileged or confidential.

DOE regulations require that we contact any firm submitting this type of information and give them the opportunity to identify proprietary financial or commercial information contained therein. Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated identified the redacted information as being proprietary information subject to withholding under Exemption 4. Thus, release of the information would likely cause substantial harm to the competitive position of Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated, as release could allow a competitor to more easily predict how Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated might bid in similar future solicitations and to adjust its future competitive bids accordingly. In addition, this type of information is held in the strictest confidence by Visionary Solutions, LLC, and CAST Specialty Transportation Incorporated and not customarily released to the general public.

Mr. Don Hancock

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MAY 19 2009

DOE regulations provide that documents exempt from disclosure under the FOIA shall not be released unless the DOE determines that this disclosure is in the public interest. However, we do not make the usual public interest inquiry in Exemption 4 cases because disclosure of confidential or proprietary data under this Exemption is prohibited under 18 U.S.C. Section 1905 of the Trade Secrets Act.

The release of information that has been redacted pursuant to Exemption 6 would constitute a clearly unwarranted invasion of personal privacy. In making this determination, the public interest in disclosure must be balanced against the privacy interest that would be invaded by disclosure of the record. Since the substance of the document remains and the release of the redacted information would not reveal anything of significance to the public, the interest in protecting the individual against the invasion of privacy far outweighs the public interest in such disclosure.


Signatures have been deleted under Office of Management Budget (OMB) M-06-15, "Safeguarding Personally Identifiable Information".

Pursuant to 10 CFR 1004.7(b)(2), I am the denying official responsible for approval of the above redactions. Any appeal must be made in writing within 30 calendar days after receipt of this letter. The appeal should be addressed to the Director, Office of Hearings and Appeals, HG-1, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, D.C. 20585. The appeal must contain a concise statement of the grounds for the appeal and a description of the relief sought. Please submit a copy of this letter with the appeal and clearly mark both the envelope and letter "Freedom of Information Appeal". Thereafter, judicial review will be available to you in the District of Columbia or in the district where you reside; where you have your principal place of business; or where the Department's records are situated.

We have determined that there are no costs for processing your FOIA request, as fees are not charged where they would amount to \$15.00 or less. Therefore, we are not making a determination on your request for a fee waiver.

If you have any questions or need additional assistance regarding this FOIA request, please contact Ms. Sharon Warren-Briggs, FOIA contact person, at (575) 234-7406 or sharon.warren.briggs@wipp.ws. Please refer to FOIA 09-001 in any correspondence regarding this request.

Sincerely,


Vernon Daub
Freedom of Information Act Public Liaison
Denying Official

Enclosures

cc: w/o enclosures
FOIA File 09-001
CBFO M&RC