

FEDERAL FREEDOM OF INFORMATION ACT



FOIA FUNDAMENTALS

- 1. Presumption**
- 2. Accessibility**
- 3. Exemptions**
- 4. Judicial Review**

FOIA FUNDAMENTALS



LETTER



DESCRIBING

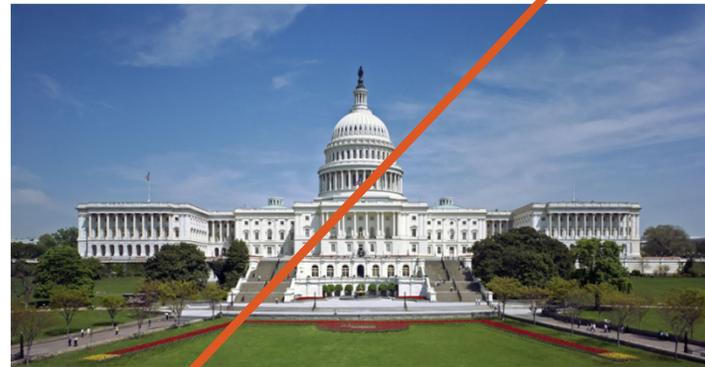


AGENCY RECORDS

+ (Sometimes) fees

FOIA FUNDAMENTALS:

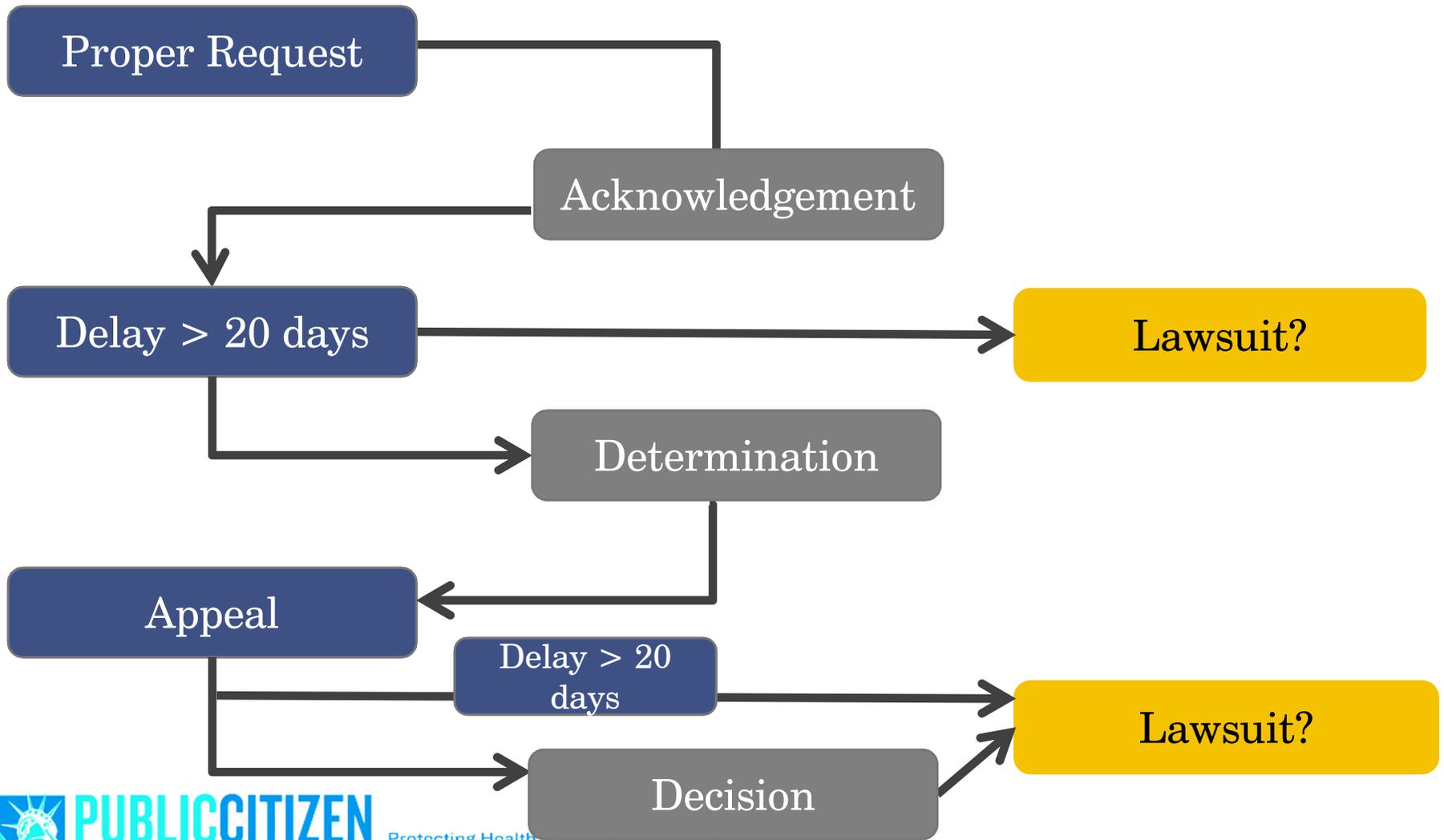
- **Any Person**
- **Agency Records**
- **Federal Agencies**



HOW FOIA WORKS

You

Agency



DRAFTING A REQUEST:

1) What records do you want?

- No questions
- No requests to create records
- Specific vs. Broad

Requests must be **in writing**.

Brainstorm... FOIA logs:

NIH FOIA Log - FY 2017

Request Id	Organization Name	City	State	Records Requested	Date Received
45612	LSU Health - Shreveport	Shreveport	Louisiana	Copies of 3 NIDDK grants.	10/3/2016
45614	Individual	Lakeway	Texas	Records relating to the use of the investigational drug Fostriecin in a human clinical trial sponsored by the NCI's Cancer Therapy Evaluation Program.	10/3/2016
45615	SAEN	Milford	Ohio	Site visit reports for UTMB (3/1/15-present); Battelle-Ohio (10/1/15-present); and Alpha Genesis-SC (4/1/14-present).	10/3/2016
45616	UCLA School of Engineering	Los Angeles	California	A copy of NCI grant 1R43CA135915-01.	10/4/2016
45617	Washington University School of Medicine	St. Louis	Missouri	A copy of NIAID grant K22AI052407.	10/4/2016
45618	Washington University School of Medicine	St. Louis	Missouri	A copy of NHLBI grant R01HL081398.	10/4/2016
45619	Washington University School of Medicine	St. Louis	Missouri	Copy of NIDDK grant K01DK077878 and summary statement.	10/4/2016
45620	IMGEN Technologies	Alexandria	Virginia	Data pertaining to all NIH purchases of the Victor model plate reader (model Victor 1, 2, 3 and Victor X) from Perkin Elmer from 1999-2012.	10/3/2016
45621	Tufts Medical Center	Brookline	Massachusetts	Copy of NEI grant R21EY026438-01.	10/5/2016
45622	Individual	Greenbelt	Maryland	A copy of all emails to and from two NIH employees from May 25, 2016 to June 25, 2016 regarding the NTP radiofrequency study.	10/5/2016
45623	Catenion	Berlin	Other	Copies of the RCDC Thesaurus from 2010-2014.	10/4/2016

...MuckRock.com

<https://www.muckrock.com/foi/list/>

...news articles

Bloomberg ▼

U.S. Sided With Tax-Avoiding Companies Over Contracting Ban

increased U.S. scrutiny of tax havens. The top executives never left the U.S., and Chief Executive Michael Lamach now runs the company from a suburb of Charlotte, North Carolina. The company makes Club Car golf carts, Trane air conditioners, and Thermo King refrigerated trucks.

Legal Arguments

Ingersoll-Rand provided the memo to Bloomberg News this week on the condition that it not publish the document and that the news organization drop an effort to obtain it through a public-records request filed with Homeland Security last September.

Homeland Security had previously disclosed the letter from Principal Deputy General Counsel Joseph Maher endorsing the memo, but fought the release of the memo itself, saying that it contained confidential information that could damage Ingersoll-Rand.

DRAFTING THE REQUEST: SPECIFIC VS. BROAD

- **Narrow by:**
 - Time
 - Keywords
 - People
- a “page-by-page search” through the “84,000 cubic feet” of documents.
- All records about the requester from all of the IRS’s offices.



DRAFTING A REQUEST:

2) Fee waiver or fee category request?

Fees & Categories of Requesters			
	Search	Review	Duplication
Commercial	✓	✓	✓
News media	-----	-----	✓ >100 pages
All other	✓ >2 hours	-----	✓ >100 pages

DRAFTING A REQUEST:

Search Fee Schedule

The reproduction fees are \$0.10 per page. The current search and review fees are determined by the General Schedule (GS) salary level which is representative of the HHS employee performing the initial search and review services.

Hourly Fees:

GS 8<	\$23
GS 9-14	\$46
GS 15>	\$83

HHS regs

(B) For searches and retrievals of requested records, either manually or electronically, conducted by clerical personnel, the fee will be \$4.00 for each quarter hour of time. For searches and retrievals of requested records, either manually or electronically, requiring the use of professional personnel, the fee will be \$7.00 for each quarter hour of time. For searches and retrievals of requested records, either manually or electronically, requiring the use of managerial personnel, the fee will be \$10.25 for each quarter hour of time.

EPA regs

(C) When searches and retrievals are conducted by contractors, requesters will be charged for the actual charges up to but not exceeding the rate which would have been charged had EPA employees conducted the search. The costs of actual computer resource usage in connection with such searches will also be charged, to the extent they can be determined.

(ii) *Duplication*. Duplication fees will be charged to all requesters, subject to the limitations of paragraph (d) of this section. For either a photocopy or a computer-generated printout of a record (no more than one copy of which need be supplied), the fee will be fifteen (15) cents per page. For electronic forms of duplication, other than a computer-generated printout, offices will charge the direct costs of that duplication. Such direct costs will include the costs of the requested electronic medium on which the copy is to be made and the actual operator time and computer resource usage required to produce the copy, to the extent they can be determined.

DRAFTING A REQUEST:

and you use this number when referring to your request.

The Under Secretary of Defense for Acquisition, Technology & Logistics (AT&L), a component of the Office of the Secretary of Defense (OSD), conducted a search of their records systems based on the information provided in your request. Mr. Robert R. Jarrett, Director of Operations, Defense Procurement & Acquisition Policy, and a FOIA Initial Denial Authority, stated that it is possible that contracts that acquired the requested items are present in the Electronic Documents Access (EDA) system; however, there are more than 30 million contracts in EDA, consisting of more than 45 million documents. No method exists for a complete text search of EDA, as some documents are scans of paper copies. The estimated time required to perform the necessary redactions of proprietary data, assuming 20 minutes per document, is **estimated to be 15 million labor hours at an estimated cost of \$660 million.**

DOD response to [MuckRock News FOIA request](#)

DRAFTING A REQUEST:

- **Public interest waiver request?**

Public interest & not primarily in commercial interest of requester. 6 Factors → address & support them all.

- **Representative of the news media:**

Gathers info of potential interest to public, use editorial skills to turn raw materials into distinct work, distributes that work to an audience.

- **Or:**

- If there are fees, please inform me before incurring;
- I am willing to pay up to \$-----.

DRAFTING A REQUEST:

3) Where to submit the request?

<https://www.foia.gov/report-makerequest.html>

Some agencies use FOIAonline

Follow agency's FOIA regs.

DRAFTING A REQUEST:

OVERVIEW

- Research - publicly available?**
- Reasonably describe:**
 - Specific as possible
- Ask for fee waiver/category or warning or set limit**
- Follow agency's rules**
- Submit**

WHAT CAN YOU GET?



Research Protocols

Protocol for the NICHD Neonatal Research Network

**The Surfactant Positive Airway Pressure and Pulse Oximetry Trial in
Extremely Low Birth Weight Infants**

The SUPPORT Trial

Final

**August 28, 2004
Revised September 16, 2004
Updated March 28, 2005**

Consent Forms

Title of Research: The Surfactant Positive Airway Pressure and Pulse Oximetry Trial in Extremely Low Birth Weight Infants

Investigators: Dr. Wally Carlo and Dr. Namasivayan Ambalavanan

Sponsor: National Institute of Child Health and Development (NICHD)

You are being asked to give your permission for your baby to participate in a study designed to determine if using positive airway pressure during resuscitation after birth helps decrease the severity of lung disease in premature babies. We will also be looking at the ranges of oxygen saturation that are currently being used with these same babies. You and your baby were selected as possible participants because you are less than 28 weeks pregnant and your baby may be born prematurely. The doctors at UAB, along with 15 other centers across the country, are participating in this project sponsored by the by the National Institute of Child Health and Human Development.

This consent form gives you information about the research study, which a member of the research team will discuss with you. This discussion should go over all aspects of this research: its purpose, the procedures that will be performed, any risk of the procedures, and possible benefits. Once you are informed about this study, you will be asked if you want your baby to participate; if so, you will be asked to sign this form.

Introduction

Your baby will be born prematurely and is at risk for a breathing problem called **Respiratory Distress Syndrome (RDS)**. A baby's lungs are made up of tiny lung sacs; each one is supposed to open and close as the baby breathes in and out. Oxygen is supposed to go in and carbon dioxide is supposed to come out. This works well in full term babies and adults; however, in premature babies, the lung sacs don't always work this way. Some lung sacs open and close normally; others collapse and stick together when the baby breathes out making it harder for the baby to breathe. Doctors treat this problem with expanding breaths and pressure to keep the lungs slightly inflated between those breaths. Keeping a little air pressure after the baby breathes out (resting pressure) makes it easier for the baby to take the next breath. Sometimes a medication called *surfactant* is given to try to help keep the lung sacs expanded.

After your baby is born, if he/she needs help breathing, the doctor or nurse will place a resuscitation bag over the baby's nose and mouth to provide oxygen and manual breaths. The bag is squeezed to force air into the baby's lungs. The bag and mask may be used to give breaths or give just pressure to keep the lungs inflated between breaths. This resting pressure is called continuous positive airway pressure or CPAP or PEEP.

Policy memos



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

OCT 11 2005

TO: Betty James Duke
Administrator
Health Resources and Services Administration

Elias Zerhourni, M.D.
Director
National Institutes of Health

Charles Grim, D.D.S., M.H.S.A.
Director
Indian Health Service

FROM: Daniel R. Levinson *Daniel R. Levinson*
Inspector General

SUBJECT: HHS Agencies' Compliance With the National Practitioner Data Bank
Malpractice Reporting Policy, OEI-12-04-00310

Attached for your review is our final report examining Department of Health and Human Services (HHS) agencies' compliance with the medical malpractice reporting requirements of the National Practitioner Data Bank (NPDB). The NPDB, which is managed by the Health Resources and Services Administration (HRSA), receives and maintains records of medical malpractice payments and of adverse actions taken by hospitals, other health care entities, licensure boards, and professional societies against licensed health care practitioners. The NPDB makes these reports available to hospitals, other health care entities, and licensure boards to facilitate their background checks and credentialing.

According to an October 15, 1990, HHS policy directive, all settled or adjudicated HHS

FDA Adverse Event Reports for Drugs

The screenshot shows the top navigation bar of the FDA website. On the left is the FDA logo and the text "U.S. FOOD & DRUG ADMINISTRATION". On the right are links for "A to Z Index", "Follow FDA", and "En Español". Below this is a search bar labeled "Search FDA". A horizontal menu contains buttons for "Home", "Food", "Drugs", "Medical Devices", "Radiation-Emitting Products", "Vaccines, Blood & Biologics", "Animal & Veterinary", "Cosmetics", and "Tobacco".

Safety

Home > Safety > MedWatch The FDA Safety Information and Adverse Event Reporting Program

MedWatch The FDA Safety Information and Adverse Event Reporting Program

Subscribe to MedWatch Safety Alerts

MedWatch: The FDA Safety Information and Adverse Event Reporting Program

[f SHARE](#) [TWEET](#) [in LINKEDIN](#) [PIN IT](#) [EMAIL](#) [PRINT](#)

FDA inspection reports of American Red Cross blood banks

INVESTIGATION OF SUSPECTED POST TRANSFUSION HEPATITIS (fatality):

6. Procedures do not require a thorough investigation of the occurrence of a clinically significant infection or infectious disease that occurs in a recipient of a blood product that could have resulted from transfusion and for which another, more likely, cause is not apparent (Consent Decree III.B.14). ARC's procedures and policies indicate a donor is only considered "implicated" in a SPTIHBV (Suspect Post Transfusion Infection of Hepatitis B) if the donor had abnormal hepatitis test result(s) or was already in the donor deferral registry for hepatitis related reasons. ARC's procedures only require review of actual testing records, associated quality control records, and re-contact of the donor for additional testing and verification of health history unless ARC considers the donor "implicated."

7. SPTHEP Case [REDACTED] investigated by the Greater Chesapeake and Potomac Region, was a follow up to a post transfusion hepatitis fatality that occurred at a hospital on November 19, 2001. The recipient (now deceased) received two units of Red Blood Cells manufactured by ARC [REDACTED] in July, 2001. Records indicate the recipient had no other hepatitis associate risks factors aside from this transfusion. The recipient presented with signs and symptoms of hepatitis B on October 31, 2001 (within the incubation range of hepatitis B, which is 30-180 days). The recipient subsequently expired on November 19, 2001. ARC determined that the two donors were not implicated based solely on the absence of an existing entry in the DDR (Donor Deferral Registry) for hepatitis related reasons and the absence of an existing abnormal hepatitis test result.

- a) ARC's determination was based on a review of electronically transmitted interpretations of viral marker tests only. ARC performed no review of actual test records or quality control records associated with hepatitis testing for the two units, to ensure the validity of the test results.
- b) ARC's determination was based on a review of the DDR, which found no existing entry for either donor. Furthermore, records contain no documentation of re-contact of the donors for the purpose of retesting or verification of health history.
- c) ARC did not trace other products manufactured from units [REDACTED] and [REDACTED] to determine disposition or to perform recipient follow-up.
- d) On 12/13/02, ARC requested copies of confirmatory test results for the recipient from hospital, the health care facility treating the recipient at the time of death. On that same day, ARC informed hospital that ARC needed to receive the confirmatory test results before further investigation was performed. On 12/14/01, the health care facility provided to ARC copies of test results confirming the presence of recent hepatitis B infection in the recipient prior to death. Records indicate ARC did no further donor testing or donor follow-up. However, ARC informed hospital that ARC's investigation found "each donor denied a prior history of hepatitis or recent



Contracts

HSTS03-13-A-CIO549		EFFECTIVE DATE	HSTS03-13-J-CIO494		SOLICITATION NUMBER	SOLICITATION ISSUE DATE
7. FOR SOLICITATION INFORMATION CALL:		A. NAME Gabriela Bravo		B. TELEPHONE NUMBER (do not enter code)	C. OFFER DUE DATE/LOCAL TIME	
8. ISSUED BY OFFICE OF ACQUISITION 701 S 12TH STREET ARLINGTON VA 20598		CODE 20	10. THIS ACQUISITION IS <input checked="" type="checkbox"/> UNRESTRICTED OR <input type="checkbox"/> SET ASIDE		11. FOR: <input type="checkbox"/> SMALL BUSINESS <input type="checkbox"/> HAZARDOUS SMALL BUSINESS <input type="checkbox"/> SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS <input checked="" type="checkbox"/> WOMEN-OWNED SMALL BUSINESS <input type="checkbox"/> ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS <input type="checkbox"/> 8(a) NAICS: 541511 SIZE STANDARD: \$25.5	
11. DELIVERY FOR FOR DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE		12. DISCOUNT TERMS Net 30		13. a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (IF GFR 100)		13b. RATING
14. DELIVER TO Office of Information Technology 701 S 12TH STREET Attn: LINDA CHATMAN ARLINGTON VA 20598		CODE TSA11	16. ADMINISTERED BY TSA INFRASTRUCTURE 701 S 12th St ARLINGTON VA 20598		14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input type="checkbox"/> IFP CODE 03	
17a. CONTRACTOR OFFICER INTERNATIONAL BUSINESS MACHINES CORPORATION Attn: [redacted] 6710 ROCKLEDGE DR BETHESDA MD 208171826		CODE 835130485	FACILITY CODE	17b. PAYMENT WILL BE MADE BY US Coast Guard Financial Center TSA Commercial Invoices P.O. Box 4111 Chesapeake VA 23327-4111		CODE TSA1
TELEPHONE NO. 301-2403797		18a. CHECK IF RESIDENCE IS DIFFERENT AND PUT EACH ADDRESS IN OFFER		18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> USE ADDENDUM		
19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES			21. QUANTITY	22. UNIT	23. UNIT PRICE
	GSA Contract #: GS-35F-4984H Tax ID Number: 13-0871985 DUNS Number: 835130485 This is a Time and Materials Task Order issued against BPA HSTS03-13-A-CIO549 for Mobile Application Development in accordance with the attached Performance Work Statement (PWS). (Attachment A) Accounting Info: STS134A000D2013ITS010GE000075006700670CIO-67050000 Continued ... (Use Reverse and/or Attach Additional Sheets as Necessary)					
25. ACCOUNTING AND APPROPRIATION DATA See schedule				25. TOTAL AWARD AMOUNT (For Govt Use Only) \$336,413.59		
<input type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-5 AND 52.212-5 ARE ATTACHED. ADDEND <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.						
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, FAR 52.212-5 IS ATTACHED. ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.						
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN 1 COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED.				29. AWARD OF CONTRACT: OFFER DATED _____ YOUR OFFER ON SOLICITATION (BLOCK 8), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN, IS ACCEPTED AS TO ITEMS:		
30a. SIGNATURE OF OFFEROR/CONTRACTOR 				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER) 		
30b. NAME AND TITLE OF SIGNER (Type or print) Mike McGowan, IBM Contracts Mgr				30c. DATE SIGNED 9/30/13		31b. NAME OF CONTRACTING OFFICER (Type or print) Kristin Fuller
30d. AUTHORIZED FOR LOCAL REPRODUCTION PREVIOUS EDITION IS NOT USABLE				31c. DATE SIGNED 30 Sep 2013		STANDARD FORM 1449 (REV. 6/2011) Prescribed by GSA - FAR (48 CFR) 53.212

Courtesy of Kevin Burke, The TSA Randomizer iPad App Cost \$1.4 Million

Consumer Complaints

Explanation:

See letter attachment regarding problems obtaining a gate pass to escort 12 year old son to the gate, and to pick him up on his return. DD

Notes:

CASE #: DD2014040153

Case Information:

Status: **CLOSED**

Method: **Telephone**

Received: **04/25/2014**

Closed: **04/25/2014**

Reopened:

Complaint Information:

Complaint Code: **GC1920** Consumer Action Code:

Airline Code: **AS**

Airline Name: **ALASKA AIRLINES** Aircraft Size: **N**

Airport Name: **Vancouver, British Columbia, Canada Vancouver International (YVR)**

Flight Type: **I**

Flight Date: **04/11/2014**

Incident Date: **04/11/2014**

Flight Itinerary:

FLT 704 YVR-LAX

Complaint Summary:**Explanation:**

Received on the DOT Consumer Compliant Line. Upgraded seats for a full flight to emergency exit seat. When I sat down the seat barely had a cushion. Stuck on plane for hours sitting in this uncomfortable hard seat. Very old plane, signs falling down, loose baggage panel, etc.

Notes:

CASE #: DD2014040154

Courtesy of MuckRock.com

Consumer Complaints

#1169685 statement made on a bounty for harm

Submitted	Received via	Requester
August 31, 2016, 8:21 AM	Web Form	(b) (6)
Status	Type	Priority
Group	Assignee	

All FCC complaints from August 14, 2016, to present regarding Colin Kaepernick and/or the San Francisco 49ers.

(b) (6)	Broadcast (AM/FM)	Indecency	(b) (6)	
State	Zip Code	Time of Issue	Date of Issue	Name of program or DJ
Ohio	44703	3:25 PM	Aug 29	Bob Golic
Phone (where you can be contacted)		City Where Program was Viewed/Heard		Call Sign
(b) (6)		Canton		WNIR
State Where Program was Viewed/Heard		Address 1	City	
Ohio		(b) (6)	Canton	
Filing on Behalf of Someone				
No				

(b) (6) Aug 31, 8:21 AM

Talk show in Canton, OH is starting to get to comfortable with the statement they are making. They tend to stir the pot. Recently on Monday a radio host, Bob Golic was upset about the situation with quarterback from the 49ers, Kapernik. He made the statement that he would be willing to buy a case of beer to anyone willing to do some harm to him for what he did. CTR98-phone

Consumer would like to remain anonymous.

(b) (6) Aug 31, 12:31 PM

Hi (b) (6)

Your complaint provides the Commission with valuable information that we use to spot trends and practices that warrant investigation and enforcement action. We do not resolve individual complaints about this issue and, there will be no status information to report on your complaint.



Courtesy of
MuckRock.com

IRS Seizes First, Asks Questions

Later

It's time for Congress to re
By LARRY SALZMAN and ROBERT E

Share on Facebook Share on

When Carole Hind
home in August
They told her th
account of the restaurant, M
owned and operated in tiny S
IRS seized more than \$32,00

While Hinder stood in shock
deposits looked suspicious. B
authority to seize her entire b
known as civil forfeiture.

The Washington Post

National Security

Near-collisions between drones, airliners surge, new FAA reports show

By Craig Whitlock November 26, 2014

Pilots around the United States have reported
drones in the past six months at a time when the
skies to remotely controlled aircraft, according

Primary Sources: How BP Lobbied the EPA to Let it Continue Being a 'Business Partner of the Government'

By Jason Leopold

November 12, 2014 | 4:00 pm

Since June 1, commercial airlines, private pilots
which small drones came within a few seconds of

Many of the close calls occurred during takeoff:

The British oil behemoth BP was worried that safety shortcomings that contributed to the 2010 blowout on the Deepwater Horizon would lead federal regulators to strip the federal contracts.

disaster that killed 11 workers and spilled hundreds of
ulf of Mexico, BP put together a confidential 72-page
ection Agency (EPA) highlighting all of the changes the

es, developed a new spill response plan, implemented
rewrote its internal code of conduct urging employees to
' with others in the industry, and held itself "accountable
he company said in its report to the EPA could not be
ous other independent and federal investigations
een a drone and a passenger aircraft: :

a.

SOURCE: AGRICULTURE

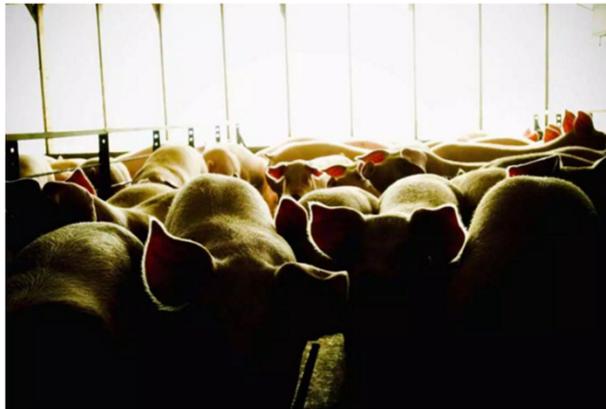
New Report Says FDA Allowed 'High Risk' Antibiotics to Be Used on Farm Animals

Bryan Walsh @bryanrwalsh Jan. 28, 2014



Antibiotic resistance claims
23,000 lives a year in the U.S.—
and the overuse of antibiotics
in livestock plays a role. Is the
FDA doing all it can to protect
Americans?

A stark fact: around 80% of the
antibiotics by weight used in the
U.S. are given not to sick human
beings, but to farm animals. And
for the most part, these drugs
aren't prescribed by veterinarians
to save ill pigs or chickens, but
instead are administered to
animals in low doses in their food
and water, for the purpose of



Elise Butler via Getty Images

Experts worry that the overuse of antibiotics on livestock is leading to resistant-strains of bacteria



consumers use everyday. When you donate today, your gift will go twice as far to ensure consumer safety.

HEALTH INC.

Federal Audits Of Medicare Advantage Reveal Widespread Overcharges

July 10, 2015 - 5:03 AM ET

FRED SCHULTE

FROM The Center for Public Integrity



Supplements Can Make You Sick

Medical benefits of dental floss unproven

By JEFF DONN Aug. 2, 2016 2:12 PM EDT



The requested video is no longer available

UP NEXT: Demonstrators Greet Pennsylvania Electors

More



The L electro



AP F

WHAT DO YOU REALLY WANT?

- **Emails between agency officials.**
- **Drafts of proposed guidance, rules, reports, environmental assessments, studies.**
- **Communications and memos within the agency on all of those.**

To: Frithsen, Jeff[Frithsen.Jeff@epa.gov]
Cc: Smith, Kelley[Smith.Kelley@epa.gov]; Briskin, Jeanne[Briskin.Jeanne@epa.gov]; Zambrana, Jose[Zambrana.Jose@epa.gov]; Teichman, Kevin[Teichman.Kevin@epa.gov]; Hubbard, Carolyn[Hubbard.Carolyn@epa.gov]
From: Gibbons, Dayna
Sent: Thur 5/7/2015 4:31:23 PM
Subject: Messaging for the assessment-- Please read-- need your feedback by COB today

Ex. 5

Thanks

202-564-7983

gibbons.dayna@epa.gov

Communications

Office of Research and Development

Exemption 5:

Privileged communications within Executive Branch

- Deliberative Process: Deliberative & Pre-decisional
- Attorney-client & attorney work-product
- Inter-/intra-agency, but some consultants too

Exemption 5:

Deliberative Process Privilege

“the quality of administrative decision-making would be seriously undermined if agencies were forced to operate in a fishbowl.”

Wolfe v. Dep't of Health & Human Servs., 839 F.2d 768, 773 (D.C. Cir. 1988)



Exemption 5:

- Advisory opinions, recommendations, deliberations, papers that reflect agency's group thinking in working out policy
- Emails between agency employees
- Briefing materials summarizing issues and advising superiors

Instead of internal memos/emails, ask for:

Communications between outside
entities & government agencies



AGENCY DEADLINES

20 working days + unusual circumstances extension

Tolling

AGENCY DEADLINES

The State Department Has Taken Over Three Years On A FOIA Request About How Long It Takes To Process FOIA Requests

CIA Took Three Years To Reject FOIA Request For Criteria For Rejecting FOIA Requests

Both from TechDirt

WHAT CAN YOU DO?

- **Consider narrow requests**
- **Estimated date of completion**
- **Politely bother them**
- **Modify scope, rolling production**
- **Negotiate priority search**
- **Initial search with sample of docs**

ACKNOWLEDGMENT

U.S. Department of Homeland Security
Washington, DC 20528



Homeland
Security

Privacy Office, Mail Stop 0655

July 15, 2015

SENT VIA E-MAIL TO: RCLATTENBURG@CITIZEN.ORG

Rachel Clattenburg
Public Citizen, Inc.
1600 20th Street NW
Washington, DC

Re: **2015-HQFO-00575**

Dear Ms. Clattenburg:

This letter acknowledges receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated and received in this office on July 8, 2015, and to your request for a waiver of all assessable FOIA fees. Specifically, you requested copies of documents pertaining to:

- 1) The legal memorandum submitted by Ingersoll Rand Plc. to the Department of Homeland Security (DHS) in March 2013 referenced in the July 6, 2015, Bloomberg Business article by Zachary Mider entitled U.S. Sided with Tax-Avoiding Companies Over Contracting Ban (<http://www.bloomberg.com/news/articles/2015-07-06/u-s-sided-with-tax-avoiding-companies-over-contracting-ban>, (the Ingersoll Rand Memo.);
- 2) The April 2014 letter from DHS Principal Deputy General Counsel Joseph Maher responding to the March 2013 Ingersoll Rand Memo referenced in the July 6, 2015, Bloomberg Business article; and
- 3) All records created, received, or maintained by DHS, including cross-references, that pertain to the March 2013 Ingersoll Rand Memo.



PUBLICCITIZEN

Protecting Health, Safety and Democracy

AGENCY DETERMINATION

- **Scope of what it will produce, exemptions, notice of appeal rights**

You have the right to appeal this determination to deny access to information in the Agency's possession and that no records were found that would be responsive to part of your request. Should you wish to do so, your appeal must be sent within thirty (30) days of receipt of this letter to the Director, News Division, Office of the Assistant Secretary for Public Affairs, United States Department of Health and Human Services, Parklawn Building, Room 19-01, 5600 Fishers Lane, Rockville, MD 20857, following the procedures outlined in Subpart C of the HHS FOIA Regulations. Clearly mark both the envelope and your letter "Freedom of Information Act Appeal."

In certain circumstances provisions of the FOIA and HHS FOIA Regulations allow us to recover part of the cost of responding to your request. Because no unusual circumstances apply to the processing of your request, there is no charge associated with our response.

APPEALS

- **Appeal final “determination”**
- **Appeal in full**
- **Deadlines**

RESOURCES FOR DRAFTING

- [DOJ Guide](#)
- [Muckrock.com](#)
- [FOIAProject.org](#)
- [FOLAmapper.com](#)
- [FOIA.gov](#)
- [Reporters Committee Guide](#)
- **FOIA logs**

ADDITIONAL NOTES ON RAFTING THE REQUEST: NO QUESTIONS & ONLY EXISTING RECORDS

- “Any and all records that identify the number and names of all current and former officials . . . of the U.S. Department of State . . . who used email addresses other than their assigned ‘state.gov’ email addresses to conduct official State Department business.”

Judicial Watch, Inc. v. Dep’t of State, No. 15-CV-690 (RMC), 2016 WL 1367731, at *1 (D.D.C. Apr. 6, 2016)

“records that identify *the number and names of all* current and former officials”

Additional Notes on Exemptions

Exemption 1: classified national security information

Exemption 2: internal agency personnel rules & practices

Exemption 3: >250 statutes

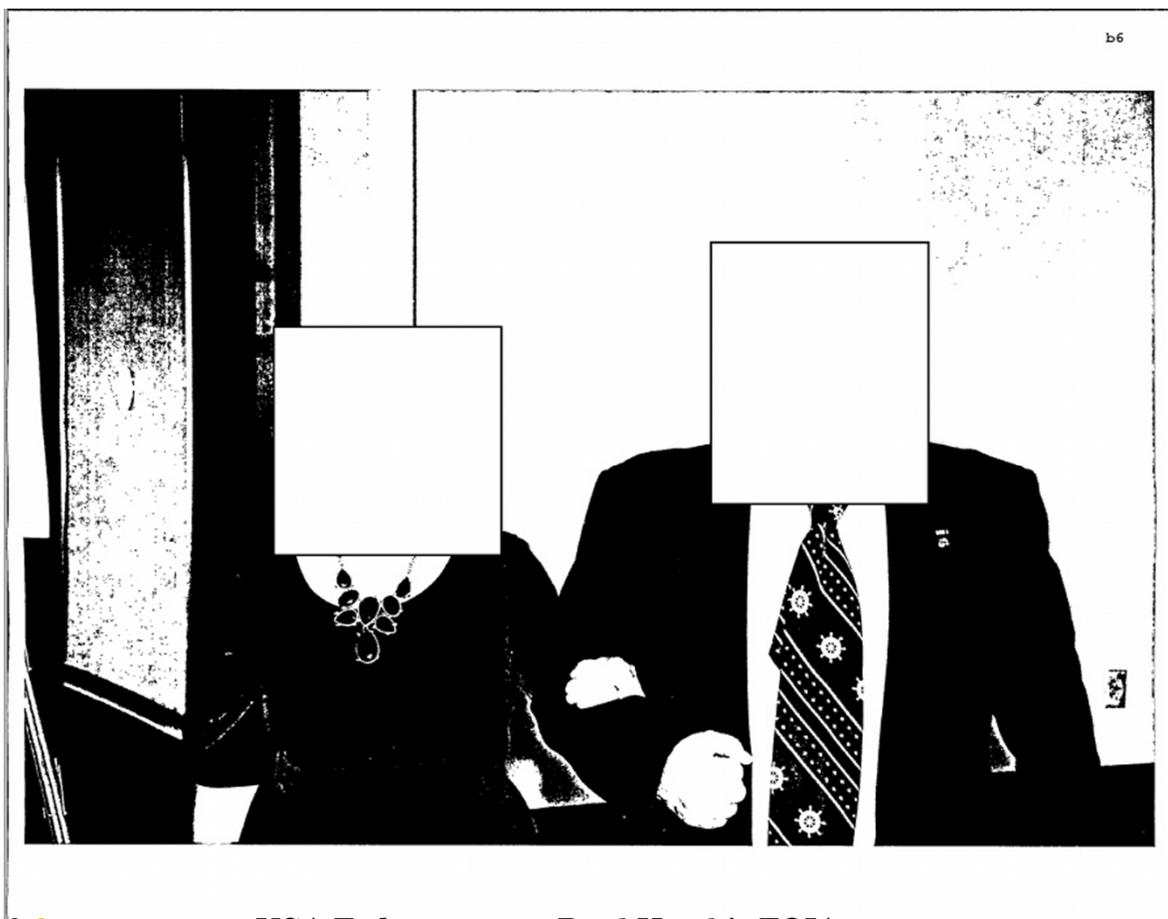
Exemption 4: trade secrets & confidential commercial/financial info submitted to agency.

Exemption 4:

Info submitted from outside entity

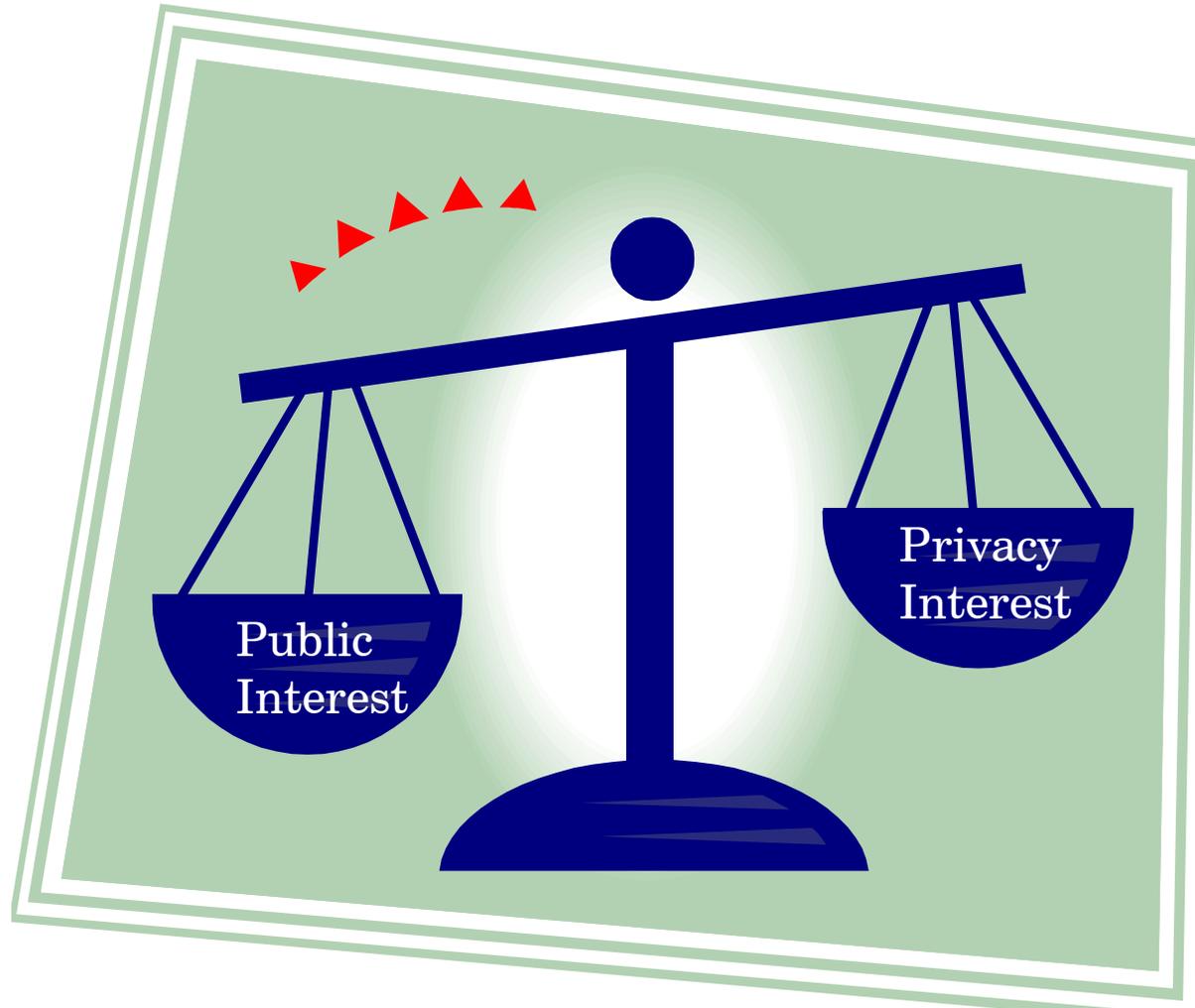
- Voluntary or involuntary submission?
- Pricing info in contracts; wage and hour information; technical or manufacturing info; data in drug applications; info that it would be costly for competitors to figure out on their own; raw data in research study; food stamp data

EXEMPTION 6: Personal Privacy



Courtesy of [the response](#) to *USA Today* reporter Brad Heath's FOIA request

EXEMPTION 6:



Public interest: extent disclosure lets public know what government is up to

EXEMPTION 6:

- Names, addresses, telephone numbers, email addresses (sometimes)
- Criminal history rap sheets
- Birth dates, social security numbers, passport information
- Identities of crime victims

EXEMPTION 6:

BUT:

- Names of those who voluntarily submitted comments
- Addresses of farmers who received federal subsidy
- Names of those who violated federal grazing laws
- Most federal employees' names, titles, grades, salaries, qualifications

EXEMPTION 7:

Records compiled for law enforcement purposes: privacy, techniques and procedures; confidential informants; would interfere with enforcement proceedings; would deprive person of right to fair trial; could endanger the life or physical safety of individual