

Public Record Media  
Matt Ehling, President  
2375 University Ave West  
Suite 200  
Saint Paul MN 55114

March 28, 2011

United States Coast Guard  
Commandant (CG-611)  
2100 2<sup>nd</sup> Street SW  
Washington DC 20593-0001

RE: Administrative appeal for FOIA request number 2010-2784

Dear Commandant,

On June 24<sup>th</sup> of 2010, I submitted a Freedom of Information Act (5 U.S.C. § 552) request to your office. The request was sent via certified mail, and it sought the following information:

“Any and all contracts that your agency has signed with Talon Security - or any company with a substantially similar name – between April 20, 2010, and June 24, 2010.”

The request was submitted as a part of news gathering. In it, I requested a waiver of fees, since disclosure of the requested information would contribute significantly to the public’s understanding of the government’s response to the “BP oil spill.” In addition, I set a limit on the amount of fees that I would be willing to pay without prior notice if my waiver was denied.

For reference, a copy of the original request is attached to this correspondence. What follows is the procedural history of the request.

**Response letter of July 22, 2010**

On July 22<sup>nd</sup>, your office responded to my initial request, and assigned it reference number 2010-2784. In the letter, FOIA officer D.G. Taylor noted that my request had been received, and that my fee waiver request was being considered.

**Notice of twenty-day statutory violation**

As you are aware, section (6)(A)(i) of the Freedom of Information Act requires federal agencies to make a determination about the release of information requested via the FOIA within twenty business days, and to also notify the requester of that determination.

After twenty business days had elapsed without a response from your office, I wrote a letter on August 26<sup>th</sup> of 2010, notifying you of the statutory violation that had occurred. In that letter, I also indicated that I would not be exercising my options to pursue administrative or judicial review at then time, in favor of pursuing a cooperative approach. At that time, I indicated my willingness to help your office “facilitate the prompt release of the requested materials” through a clarification of the scope of the request. However, I did not receive any return correspondence related to this offer.

**Lack of ten-day extension notification**

Section (6)(B)(i) of the FOIA allows for a ten day extension of the normal twenty day response time due to “unusual circumstances” as described in section (6)(B)(iii). Such an extension requires the agency to provide written notification of the extension. As of the date of this writing, I have yet to receive such written notice from your office.

**Administrative review sought**

More than eight months have elapsed since you sent your initial response letter, but I still have not received any correspondence from your office. Since your office has not been in contact to help resolve any outstanding questions regarding the scope of my request, I am now choosing to exercise other options available to me to obtain the requested materials.

I am seeking administrative review of your agency’s failure to respond to my FOIA request of June 24, 2010. My right to administrative review is established by the FOIA, and your agency’s appeals procedures are set out in Chapter 10 of the Coast Guard Freedom of Information and Privacy Acts Manual (CGFIPA Manual). According to Chapter 10, I have grounds to appeal if the agency record holder fails to process the “request within the applicable timeframe specified by the FOIA.” The foregoing procedural history of my request demonstrates that the request was not processed within the required timeframe.

**Possible political review of FOIA request 2010-2784**

Given recent news reports, I have reason to inquire into whether personnel from the Department of Homeland Security (DHS) may have acted to delay the release of information related to my June 24<sup>th</sup> request. The Associated Press has filed several reports indicating that the DHS (of which your agency is a component) has subjected FOIA requests to unusual political scrutiny, substantially delaying the production of responsive materials.

Documents released by the Department of Homeland Security through the FOIA illustrate that staffers within the DHS subjected certain FOIA requests to additional scrutiny, including checking on the party affiliation of a requester. These documents can be found on the Department of Homeland Security web site at:

[http://www.dhs.gov/xfoia/gc\\_1283193904791.shtm](http://www.dhs.gov/xfoia/gc_1283193904791.shtm).

I have no direct evidence of DHS-imposed delays related to my particular request, but I would note that my request was filed at a time during which politically related delays were reportedly occurring. As such, I consider it possible that political considerations may have resulted in the delay of the release of my requested materials. If such a review process delayed release determinations beyond the response time allowed by law, then that process caused your agency to violate the plain language of the FOIA.

As part of your administrative review of my request, I would ask that your staff inquire into whether political review of my request was undertaken by the Department of Homeland Security. If such review occurred, I would further ask your staff to inquire into whether that review resulted in the delay of the release of my requested materials. Per chapter 10, section E of the CGFIAP Manual, this information would need to be provided by the agency record holder if it resulted in a delay in the provision of responsive records.

**Time frame for administrative appeal**

As noted in chapter 10 of the CGFIPA Manual, your agency must provide a final administrative determination related to my request within twenty working days from the receipt of this letter. If your agency needs to extend this time frame by an additional ten days, it must do so by written notice.

I can be contacted with any questions related to this request at 651-335-2037, or at [info@publicrecordmedia.com](mailto:info@publicrecordmedia.com).

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Ehling', with a long horizontal stroke extending to the right.

Matt Ehling  
President, Public Record Media, LLC

cc: D.G. Taylor  
FOIA Officer  
U.S. Coast Guard

Matt Ehling, President  
Public Record Media, LLC  
2375 University Ave W  
Saint Paul MN 55114

June 24, 2010

United States Coast Guard  
Commandant (CG-611)  
2100 2<sup>nd</sup> Street, SW  
Washington DC 20593-0001  
Attn: FOIA

RE: Freedom of Information Act request

Dear Commandant,

This is a request under the Freedom of Information Act (5 USC 552). I request that a copy of the following records be provided to me:

Any and all contracts that your agency has signed with Talon Security - or any company with a substantially similar name – between April 20, 2010, and June 24, 2010.

In order to help you determine my status for the purpose of assessing fees, you should know that I am a freelance journalist, and that this request is made as part of news gathering, rather than for commercial use. Responsive files will be shared with researchers, journalists, and the public, and will not be licensed for profit.

I request a waiver of fees for this request, since the public dissemination of the requested materials will aide public understanding of the federal government's security operations in the Louisiana gulf region, as they relate to what has been colloquially referred to as the "BP oil spill." Press reports indicate that a company known as "Talon Security" has been active in securing portions of the incident site.

If this waiver is denied, I am willing to pay fees of up to \$100.00. If fees are estimated to exceed this amount, please notify me first.

