



Transportation
Security
Administration

March 31, 2016

3600.1

Case Number: 2015-TSFO-00083

Kevin Burke
60 Sara Lane
Alamo, CA 94507
kev@inburke.com

Dear Mr. Burke:

This letter responds to your Freedom of Information Act (FOIA) request dated December 05, 2014, addressed to the Transportation Security Administration (TSA) FOIA Branch seeking access to “[t]he RFP (Request for Proposal) issued by the TSA for designing and implementing the ‘TSA Randomizer’ iPad application. Details of any submitted bids from contractors or internal government agencies to design and construct the ‘TSA Randomizer’ iPad app. The final signed contract between the TSA and a contractor to implement the ‘TSA Randomizer’ iPad app.”

The processing of your request identified certain materials that will be released to you. Portions not released are being withheld pursuant to the Freedom of Information Act, 5 U.S.C. § 552. Please refer to the Applicable Exemptions list at the end of this letter that identifies the authority for withholding the exempt material, which is indicated by a mark appearing in the block next to the exemption. An additional enclosure with this letter explains these exemptions in more detail. For your information, the TSA Randomizer iPad application was built under contract as part of a tasking during performance. TSA did not issue a solicitation or receive proposals for building the application. Therefore, TSA does not have any bids from contractors or government agencies to build the application.

The rules and regulations of the Transportation Security Administration applicable to Freedom of Information Act requests are contained in the Code of Federal Regulations, Title 6, Part 5. They are published in the Federal Register and are available for inspection by the public.

Fees

There are no fees associated with processing this request because the fees incurred do not exceed the minimum threshold necessary for charge.

Administrative Appeal

In the event that you wish to appeal this determination, an administrative appeal may be made in writing to Kimberly Walton, Assistant Administrator, Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement (CRL/OTE), Transportation Security Administration, 601 South 12th Street, East Building, E7-121S, Arlington, VA 20598-6033. Your appeal **must be submitted within 60 days** from

the date of this determination. It should contain your FOIA request number and, to the extent possible, the reasons why you believe the initial determination should be reversed. In addition, the envelope in which the appeal is mailed should be prominently marked "FOIA Appeal." Please note that the Assistant Administrator's determination of the appeal will be administratively final.

If you have any questions pertaining to your request, please feel free to contact the FOIA Branch at 1-866-364-2872 or locally at 571-227-2300.

Sincerely,



Regina McCoy
FOIA Officer

Summary:

Number of Pages Released in Part or in Full: 8

**APPLICABLE EXEMPTIONS
FREEDOM OF INFORMATION ACT AND/OR PRIVACY ACT**

Freedom of Information Act (5 U.S.C. 552)

(b)(1) (b)(2) (b)(3) (b)(4) (b)(5) (b)(6)

(b)(7)(A) (b)(7)(B) (b)(7)(C) (b)(7)(D) (b)(7)(E) (b)(7)(F)

Enclosures

FREEDOM OF INFORMATION ACT
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

Transportation Security Administration (TSA) FOIA Branch applies FOIA exemptions to protect:

Exemptions

Exemption (b)(1): Records that contain information that is classified for national security purposes.

Exemption (b)(2): Records that are related solely to the internal personnel rules and practices of an agency.

Exemption (b)(3): Records specifically exempted from disclosure by Title 49 U.S.C. Section 114(r), which exempts from disclosure Sensitive Security Information (SSI) that “would be detrimental to the security of transportation” if disclosed.

Exemption (b)(4): Records that contain trade secrets and commercial or financial information obtained from a person that is privileged or confidential.

Exemption (b)(5): Inter- or intra-agency records that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege:

- Deliberative process privilege – Under the deliberative process privilege, disclosure of these records would injure the quality of future agency decisions by discouraging the open and frank policy discussions between subordinates and superiors.
- Attorney work-product privilege – Records prepared by or at the direction of a TSA attorney.
- Attorney-client privilege – Records of communications between an attorney and his/her client relating to a matter for which the client has sought legal advice, as well as facts divulged by client to attorney and any opinions given by attorney based on these.

Exemption (b)(6): Records that contain identifying information that applies to a particular individual when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” This requires the balancing of the public’s right to disclosure against the individual’s right to privacy.

Exemption (b)(7)(A): Records or information compiled for law enforcement purposes, but only to the extent that production of such law enforcement records or information...could reasonably be expected to interfere with law enforcement proceedings.

Exemption (b)(7)(C): Records containing law enforcement information when disclosure “could reasonably be expected to constitute an unwarranted invasion of personal privacy” based upon the traditional recognition of strong privacy interests ordinarily appropriated in law enforcement records.

Exemption (b)(7)(E): Records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

Exemption (b)(7)(F): Records containing law enforcement information about a person, in that disclosure of information about him or her could reasonably be expected to endanger his or her life or physical safety.

PRIVACY ACT
SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

Transportation Security Administration (TSA) FOIA Branch applies Privacy Act exemptions to protect:

Exemptions

Exemption (d)(5): Information compiled in reasonable anticipation of civil action or proceeding; self-executing exemption.

Exemption (j)(2): Principal function criminal law enforcement agency records compiled during course of criminal law enforcement proceeding.

Exemption (k)(1): classified information under an Executive Order in the interest of national defense or foreign policy.

Exemption (k)(2): Non-criminal law enforcement records; criminal law enforcement records compiled by non-principal function criminal law enforcement agency; coverage is less broad where individual has been denied a right, privilege, or benefit as result of information sought.

Exemption (k)(5): Investigatory material used only to determine suitability, eligibility, or qualifications for federal civilian employment or access to classified information when the material comes from confidential sources.

Exemption (k)(6): Testing or examination material used to determine appointment or promotion of federal employees when disclosure would compromise the objectivity or fairness of the process.