



Sai . <saizai@gmail.com>

RE: FOIA Case 2014-FPRO-0057

Sai <usps@s.ai>

Sat, Nov 23, 2013 at 12:37 PM

To: nancy.p.chavannesbattle@usps.gov

Cc: david.c.belt@usps.gov, "WACLAWSKI, JAMES X" <james.waclawski@prc.gov>

` Dear Ms. Chavannes-Battle -

On November 19th, I left you a voicemail message, as requested in your letter, regarding your response to my FOIA request (see both attached), explaining that:

1. you failed to respond to my public interest fee waiver request; and
2. you failed to respond to, or to respect, my request for electronic format (not paper) documents, e-mail response, and minimum cost (i.e. electronic) duplication.

These failures violate Federal law. See (among others):

5 U.S.C. § 552(a)(4)(A)(iii) & 39 CFR 265.9(g)(3) - shall determine public interest exemption before claiming fees

5 U.S.C. § 552(a)(3)(B), 39 CFR 265.9(h)(3) - shall provide in format requested if available and shall charge no more than actual costs (n.b. there is no such thing as a "per page" actual cost to transmit electronic documents)

OMB Fee Guidelines, 52 Fed. Reg. at 10,018 - least cost possible

I also asked you to explain how my request could be narrowed by category, such that the costs might be reduced, as your letter did not explain its basis for calculating 28 hours of "search time", nor how that time might be reduced while fulfilling as much of my request as possible.

I have not received any response whatsoever to my voicemail, so I am following up by e-mail.

Please note that because there has been no "determination" within the 20-day statutory requirement, I am under no obligation to make any administrative appeal, and have the right to *immediately* file suit in the DC Circuit Court. See e.g. CREW v. FEC, DC Court of Appeals 12-5004 - http://www.fec.gov/law/litigation/crew_ac_order.pdf.

If I do not receive an adequate explanation and response regarding all three of the above issues, by e-mail, by December 5th, 11 pm Eastern time, I will have to assume that the USPS is intentionally refusing to obey the FOIA's requirements, and will have no choice but to a) file suit for declaratory, injunctive, and cost recovery relief, and

b) file copies of my request, your response, and my civil complaint in PRC proceeding MC2013-60, as evidence of bad faith and as evidence that the USPS is deliberately withholding evidence that would benefit my argument (per the absent witness rule, 29 Am. Jur. 2d Evidence § 257), consistent with its entire pattern of response in that proceeding to date.

I am sending this email as a courtesy and good faith attempt to resolve the matter without litigation, and to give you a more than adequate time to respond (even though I am under no obligation to extend any further time).

I hope that the USPS' failures in this matter were a genuine mistake, and that you are willing to comply voluntarily with the requirements of the FOIA and 39 CFR 265.

I look forward to receiving your prompt response, *by e-mail*, before December 5th, 11pm Eastern.

Sincerely,
Sai

/cc David C. Belt, Office of the General Counsel, USPS
/cc Jim Waclawski, Public Representative on MC2013-60, Postal
Regulatory Commission

2 attachments



2013-10-18 FOIA request for documents related to PAF.pdf
118K



2013-11-06 USPS response re MC2013-60 FOIA request.pdf
2397K