



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D. C. 20503

October 18, 2007

Ms. Marci Hofmann
Staff Attorney
Electronic Frontier Foundation
1875 Connecticut Avenue N.W.
Suite 650
Washington, DC 20009

[Sent via Facsimile – (415) 436-9993]

Dear Ms. Hofmann:

This responds to your Freedom of Information Act (FOIA) appeal letter dated September 21, 2007 concerning the Office of Management and Budget's (OMB) response of August 10, 2007 to your Freedom of Information Act (FOIA) request dated July 2, 2007. Your FOIA request asked for "all reports, statements, or memoranda from January 1, 2006 to the present from chief information officers or other federal agency officials concerning negotiations or agreements with Google or other technology companies for the digitization, access or dissemination of agency information."

In OMB's response letter of August 10, 2007, we informed you that OMB had conducted a search of its files and had identified nine documents that were responsive to your request. OMB indicated to you that five of these documents (consisting of a total of 98 pages) were publicly available on the Internet, and we provided you with the website links to access each document. In addition, OMB determined that the other four documents were exempt from mandatory disclosure pursuant to FOIA exemption 5, 5 U.S.C. §552(b)(5), because they constituted intra-agency or inter-agency, pre-decisional, and deliberative communications, the disclosure of which would inhibit the frank and candid exchange of views that is necessary for effective government decision-making. Concluding that their release would not be in the public interest, OMB withheld those four documents.

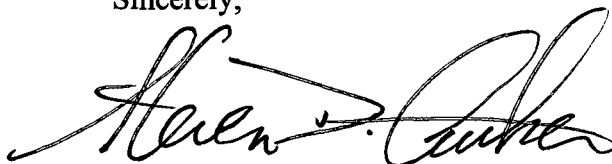
In response to your appeal, OMB has again reviewed the four withheld documents. Based on our review, we have determined that certain portions of three of the four documents are appropriate for release. Consequently, as a result of this reconsideration, OMB has expanded its release to you, by releasing those portions of the three documents (enclosed).

The remaining portions of the three documents, and the entirety of the fourth document, consist of either draft agency documents (some containing handwritten deliberative notes or electronic comments) or e-mail exchanges between Executive Branch employees containing deliberative discussions about those draft documents. These portions of the three documents, and the fourth document, do not contain any factual information that is reasonably segregable from the pre-decisional, deliberative materials. Accordingly, they are exempt from mandatory disclosure

under FOIA Exemption 5, and OMB is withholding them because their release would harm the deliberative process by inhibiting the frank and candid expression of views. Moreover, we are withholding personal information such, as individual cell phone numbers and e-mail addresses under Exemptions 2 and 6, 5 U.S.C. §552(b)(2) and (b)(6).

Judicial review of my action on your appeal is available to you in accordance with the provisions of 5 U.S.C. §552(a)(4).

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Aitken". The signature is fluid and cursive, with a large initial "S" and "A".

Steven D. Aitken
Deputy General Counsel

Enclosures

Costello, Daniel J.

From: Lewis Bellardo [REDACTED]
Sent: Monday, August 28, 2006 7:58 AM
To: Schlarman, Glenn R.
Cc: Zaleski, Allison E.; Costello, Daniel J.
Subject: RE: REQUEST: OMB meeting re: Agency Information Agreements
Attachments: NARA Principles and Policies Relating to Digital Partnerships v2.doc

Glenn, et. al.:

Here are the draft operational principles that we are using in discussions with potential digitization partners. As you can see they have not been adopted as formal policy. However, they are very helpful in guiding discussions. See you later today.

Lew

>>> "Schlarman, Glenn R." <Glenn_R._Schlarman@omb.eop.gov> 8/23/2006 10:45 AM >>>
 Lew,

Monday 2PM at your place downtown is fine

Glenn

From: Lewis Bellardo [mailto:[REDACTED]]
Sent: Wednesday, August 23, 2006 10:40 AM
To: Schlarman, Glenn R.
Cc: Carl Rauscher; Zaleski, Allison E.; Costello, Daniel J.
Subject: RE: REQUEST: OMB meeting re: Agency Information Agreements

Glenn,

We are clear for Monday, August 28 at 2:00. Please advise if this still works for you. Also, would you want to meet at the Archives building downtown or at OMB.

Lew

>>> Lewis Bellardo 8/22/2006 7:48:25 PM >>>

Hello, Glenn.

I saw this after the fact. We will try to move schedules around so that we can meet on Aug. 28.

I especially want to be able to meet with you folks before we meet with GAO on Sept 7 regarding GPO/LC/NARA collaboration/overlap/gaps. This is an "invitational" meeting requested by GAO.

Lew

>>> "Schlarman, Glenn R." <Glenn_R._Schlarman@omb.eop.gov> 8/21/2006 5:14:49 PM >>>
 Thanks

Tomorrow doesn't work, but Monday the 28th at the downtown location does.

There will be three of us

-----Original Message-----

From: Carl Rauscher [mailto:carl.rauscher@nara.gov]

Sent: Monday, August 21, 2006 3:31 PM

To: Schlarman, Glenn R.

Cc: Lewis Bellardo

Subject: REQUEST: OMB meeting re: Agency Information Agreements

Dr. Lew Bellardo requested I arrange a meeting with you (and joined by several other NARA staff) to discuss Agency Information Agreements, re: Google, and how NARA's efforts may assist you as a model for other agencies. I checked with our representatives to find available dates and times to offer, and would like to propose the following dates & times for this meeting:

AUG 22 (Tue)- 3:00 pm or AUG 28 (Mon)- 2:00
pm

The meeting is anticipated to take one hour and we would be happy to host the meeting at whichever NARA location is most convenient: A1 (Washington DC) or A2 (College Park, MD). Please let me know if you would be available on the above periods. If none of the dates work for you, please suggest some alternatives for us to pursue.

Carl Rauscher
Staff Assistant - Deputy Archivist's Office
(301) 837-0320

**Attached document
withheld under
FOIA Exemption (b)(5)**

Costello, Daniel J.

From: Steve Needle [redacted]
Sent: Monday, December 11, 2006 5:26 PM
To: Costello, Daniel J.
Subject: RE: Google Agreement
Follow Up Flag: Follow up
Flag Status: Purple

Thanks for your help. [redacted]

Steve

From: Costello, Daniel J. [mailto:[redacted]]
Sent: Monday, December 11, 2006 4:09 PM
To: Steve Needle
Cc: Ellen Herbst; Bruce Borzino; Wally Finch; Bill Clark; Keith Sinner; Lee Halvorsen; Zaleski, Allison E.; Brandt, Melissa N.
Subject: RE: Google Agreement

thank you Steve.

[redacted]

[redacted]

[redacted]

regards,
Daniel

From: Steve Needle [mailto:[redacted]]
Sent: Thursday, December 07, 2006 11:29 AM
To: Costello, Daniel J.
Cc: Ellen Herbst; Bruce Borzino; Wally Finch; Bill Clark; Keith Sinner; Lee Halvorsen
Subject: RE: Google Agreement

Daniel:

Thank you for your kind comments. [redacted]

[redacted]

[redacted]

[REDACTED]

As to your specific questions:

1.

[REDACTED]

2.

[REDACTED]

3.

[REDACTED]

Please let me know if you have additional questions or if you want to meet or teleconference on this. I will be away this afternoon and Friday, but am back in DC all next week, [REDACTED]

Steve Needle
703-605-6404

From: Costello, Daniel J. [mailto:[REDACTED]]
Sent: Tuesday, December 05, 2006 6:46 PM
To: Steve Needle
Cc: BWest@doc.gov; Ellen Herbst; Zaleski, Allison E.; Brandt, Melissa N.
Subject: Google Agreement

thank you Steve,

[REDACTED]

[REDACTED]

Some initial thoughts & considerations are below:

- 1) [REDACTED]
- 2) [REDACTED]
- 3) [REDACTED]

thank you,
Daniel 202-395-7857

From: Steve Needle [mailto:[REDACTED]]
Sent: Monday, December 04, 2006 2:55 PM
To: Glenn_R.Schlarman@omb.eop.gov; Costello, Daniel J.
Cc: BWest@doc.gov; Ellen Herbst
Subject: Google Agreement

[REDACTED]

Steve Needle
Tel. (703) 605-6404
Fax. (703) 605-6700

**Attached document
withheld under
FOIA Exemption (b)(5)**

Costello, Daniel J.

From: Borda, Gary G. (HQ-MC000) [REDACTED]
Sent: Wednesday, November 22, 2006 9:30 AM
To: Costello, Daniel J.; Rivera, Deborah J. (HQ-NB000)
Cc: Zaleski, Allison E.; Schlarman, Glenn R.; Naik, Nitin (HQ-JD000); Dunbar, Brian (HQ-NB020)
Subject: RE: feedback on NASA arrangement
Follow Up Flag: Follow up
Flag Status: Purple

Dan,

Thanks for your input. We will meet internally next week to discuss your questions and will get back to you ASAP after that.

Gary

Gary G. Borda
Agency Counsel for Intellectual Property
Office of the General Counsel
NASA Headquarters
300 E Street, SW, Suite 9T39
Washington, DC 20546
Phone: (202) 358-2038
Cell: (202) [REDACTED]
Fax: (202) 358-4341

From: Costello, Daniel J. [mailto:[REDACTED]]
Sent: Tuesday, November 21, 2006 1:14 PM
To: Rivera, Deborah J. (HQ-NB000); Borda, Gary G. (HQ-MC000)
Cc: Zaleski, Allison E.; Schlarman, Glenn R.
Subject: feedback on NASA arrangement

Hi Gary and Debbie,

as promised we reviewed and thought some more on your presentation and materials.

[REDACTED]

[REDACTED]

thank you for taking the time to discuss this valuable program,
Daniel

1) [REDACTED]

[REDACTED]

[REDACTED]

- a) [REDACTED]
- b) [REDACTED]

2) [REDACTED]

3) [REDACTED]

4) [REDACTED]

5) [REDACTED]

6) [REDACTED]