



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Legal Counsel

July 20, 2009

Carl Malamud, President & CEO
Public.Resource.Org
1005 Gravenstein Highway North
Sebastopol, CA 95472

Re: FOIA No. A9-08-FOIA-267

Dear Mr. Malamud:

We have not received a reply from you regarding our June 10, 2009, letter responding to your request for a waiver of any fees associated with processing the above Freedom of Information Act (FOIA) request. Clarifying information was needed from you in order to complete the processing of your FOIA request.

The information or records requested are identified below:

Your status as a non-profit organization does not automatically qualify you or Public.Resource.Org for a fee waiver, and you have failed to provide sufficient other information for EEOC consideration in making a decision as to whether it would be appropriate to grant you a fee waiver for the costs of servicing these requests. Accordingly, consideration of your fee waiver request is being deferred pending the submission of all necessary supplemental or clarifying information to this office.

The FOIA requires that two basic requirements be satisfied in order to grant a request for a fee waiver. First, it must be established that disclosure of the requested information is in the "public interest" because it is likely to contribute significantly to the public understanding of the operations or activities of the Government. Second, it must be established that disclosure of the information requested is not primarily in the "commercial interest" of the requester. 5 U.S.C. 552 § (4)(A)(iii); 29 CFR sec.1610.14(a).

Agencies consider a total of six analytical factors in determining whether the fee waiver requirement has been met; four factors with regard to the first criterion mentioned above, and two with regard to the second. The four factors to be considered in determining the "public interest" in the subject matter requested are whether: 1) the subject matter of the request specifically concerns identifiable operations or activities of the Government; 2) disclosure of the requested information will likely contribute to the public's understanding of specific Government operations or activities; 3) disclosure will contribute significantly to the understanding of the public at large, as opposed to a narrow segment of interested persons; and 4) disclosure of the requested information will significantly enhance the level of public understanding of government operations or activities.

The "commercial interest" criterion requires a determination of the following two factors: whether disclosure of the requested information would further the commercial interest of the requester; and if "yes," whether, on balance, the public interest in disclosure of the subject matter is paramount to any commercial interest of the requester.

To ensure that your request is in the public interest, i.e., that the public will benefit from any expenditure of public funds for the disclosure of public records to you, I am requesting that you forward to my attention within (5) business days of your receipt of this letter particularized information describing:

- how the subject matter of your request relates to defined operations or activities of the EEOC;
- your ability to disseminate, and the proposed means of actually disseminating, the requested information to the public at large, i.e., how the general public will benefit from the release of the requested records;
- how the public's understanding of the EEOC's activities and operations, as compared to the level of public understanding existing prior to the disclosure of the requested records, would be enhanced to a significant extent by the disclosure;
- explain how your organization qualifies as a "representative of the new media";
- whether the commercial interest of Public.Resource.Org or your own will be furthered by the disclosure of the request information; and
- all tracking systems and/or search engines that are used on Public.Resource.Org's internet site for the public at large to access; and
- Public.Resource.Org's extensive publication activities.

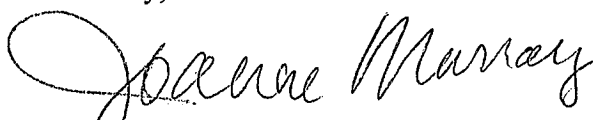
Upon review of your supporting information, a determination will be made on your fee waiver request.

Please direct your written response to my attention in the Office of Legal Counsel, FOIA Programs, Equal Employment Opportunity Commission, 131 M Street, N.E., Suite 5NW02E, Washington, D.C. 20507.

We hereby notify you that **you are being given ten (10) working days, from today's date, in which to respond.** If we have not received a response from you by August 3, 2009 your original FOIA request, received in this office on May 26, 2009, will be closed as no response.

Thank you for your attention to this request.

Sincerely,



Joanne Murray
Information Specialist / FOIA Programs