



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
2 NAVY ANNEX
WASHINGTON, DC 20380-1775

IN REPLY REFER TO:

5720
ARSF-CT/9U100570
June 1, 2009

MR CARL MALAMUD
PUBLIC RESOURCE ORG
1005 GRAVENSTEIN HIGHWAY NORTH
SEBASTOPOL CA 95472

Dear Mr. Malamud,

This refers to your May 20, 2009, Freedom of Information Act (FOIA) request by which you seek to obtain copies of documents maintained in U.S. Marine Corps (USMC) files. Your request was received by this Headquarters on May 28, 2009, and is controlled under file number HQMC-200900561.

You state that you are seeking records in order to determine how much money the USMC is spending on access to federal court documents and other primary legal materials. Specifically, you seek to obtain copies of "any memoranda or budgetary documents that detail the total amount actually spent or the amount budgeted to be spend by the USMC to access the PACER system run by the Administrative Office of the Courts," "any agreements, contracts, or memoranda of under-standing between the USMC and the Administrative Office of the Courts governing access to the PACER system by USMC staff," "any memoranda or other documents from USMC management to USMC lawyers asking them to curtail, limit, or otherwise ration their use of the PACER system due to cost considerations," "any contracts, memoranda, or budgetary materials detailing the specific agreements and amount of money spent by the USMC with commercial legal information providers such as Thomson WestLaw or the ReedElsiveir LexisNexis service."

You have also requested media requester status, stating that you qualify as a representative of the news media because you are a public charity chartered to create public works projects on the Internet with a particular focus on making government information more broadly available without fees to any and all users. You also state that the requested documents will be promptly "published" to your Internet site. Please be advised that in order to qualify as representative of the news media, you must state how you plan to create and disseminate a unique editorialized product upon receipt of the documents. Simply posting documents on an Internet site does not qualify as editorializing. After carefully considering your request, I have determined that you have not demonstrated your eligibility for media status.

We have determined you to be an "Other Requester" for the purpose of assessing FOIA processing fees. As such, you are entitled to two hours of search and 100 pages of duplication

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free of charge but are responsible for any search and/or duplication costs incurred subsequent to your free entitlement. Subsequent processing fees are assessed at the established Department of Defense fee rate of \$20.00 per hour for clerical search, \$44.00 per hour for professional search, \$75.00 per hour for executive search, and document duplication at \$.15 per page.

It is noted that you have requested a waiver of all fees based on the fact that disclosure of the requested information is "in the public interest," "will contribute significantly to the public understanding of the operations or activities of the government," and that, as a nonprofit organization, will derive no commercial benefit from the requested documents. However, after reviewing your request, we find that you have not adequately demonstrated how your request will "significantly" contribute to the public understanding of government operations or activities. Further, your request for a fee waiver should address the current level of public attention to the general subject to which the information relates, along with a specific description of who in the public would be benefited upon the release of those documents. Your request should also address your expertise in the subject area of the request and your ability and intention to disseminate the information to the public. Additionally, you must specifically describe who in the public would be benefited upon the release of those documents. Because you have not demonstrated the criteria described above, your request for a fee waiver is denied.

Finally, absent your alternate commitment to pay for appropriate incurred processing fees, we are unable to proceed with the processing of your request at this time. Your request, as currently described, is a complex request which would require an extensive search of Department of Defense components and potential collection of records from component facilities that are separate from this Office. Should responsive records be identified, they may also require consultation with other agencies or submitters having a substantial interest in the determination.

Because I have denied your requests for news media status and a full waiver of fees, you may consider this an adverse determination that may be appealed to the General Counsel of the Navy, FOIA/PA Appeals Office, 1000 Navy Pentagon, Room 4E635, Washington, DC 20350-1000. Your appeal, if any, must be postmarked within 60 calendar days from the date of this letter to be considered and copies of your initial request and this letter should be attached. Additionally, your appeal correspondence should include a written statement indicating why you believe your appeal should be granted. I recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal."

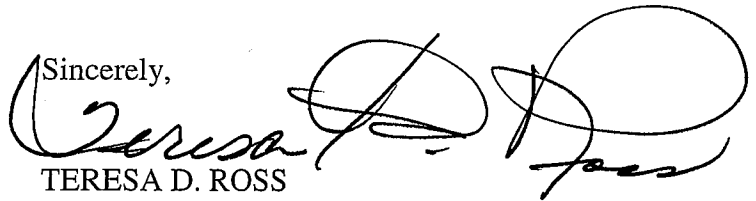
Upon receipt of your written commitment to pay for incurred search and duplication costs, we will initiate a search for documents responsive to your request. However, you may wish to reduce incurred processing fees by narrowing the scope of your request.

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If we do not hear from you by close-of-business on June 30, 2009, we will close your request file as "unperfected" with no further action required. Questions concerning this action may be directed to Georges Eid of my staff at (703) 614-4008.

I am the official responsible for the adverse determination of your request.

Sincerely,

A handwritten signature in black ink, appearing to read "Teresa D. Ross", with a large, stylized flourish at the end.

TERESA D. ROSS
Head, FOIA/PA Section (ARSF)
Security Programs & Info Mgmt Branch
Administration and Resource Mgmt Division
By direction of the
Commandant of the Marine Corps