



## Department of Energy

Bonneville Power Administration  
P.O. Box 3621  
Portland, Oregon 97208-3621

FREEDOM OF INFORMATION ACT PROGRAM

December 13, 2022

In reply refer to: FOIA #BPA-2021-00512-F

**SENT VIA EMAIL ONLY TO:** [joeprats@aprstaffing.com](mailto:joeprats@aprstaffing.com)

Joe Prats, Chief Executive Officer  
APR Staffing  
5319 SW Westgate Drive  
Portland, Oregon 97221

Dear Mr. Prats,

This communication is the Bonneville Power Administration's (BPA) final response to your request for agency records made under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). BPA received your records request on March 26, 2021, and formally acknowledged your request on April 8, 2021. BPA sent the first partial release on September 30, 2022.

### Request

"Email correspondence from February 1, 2021 through March 26, 2021 where Scott Hampton (NSP-440-LL, [srhampton@bpa.gov](mailto:srhampton@bpa.gov)) has sent, has forward[ed], has received, has been copied or has been blinded copy [sic] on email communications related to: -BPA SLMO March 2021 vendor scorecard-Supplemental Labor Management Office Rationalized Suppliers."

### Second Partial and Final Response

The agency has collected responsive records from knowledgeable personnel in the Supplemental Labor Management Office. BPA's Cyber Security Forensics & Intelligence office also conducted a search and delivered Outlook email files responsive to your request. Those records are being released to you in partial installments, as permitted by the FOIA, and in an effort to release records as they are reviewed and available for public release. BPA's final response installment comprises 1,204 pages of agency records. Those pages accompany this communication, with the following redactions applied:

- 29 redactions applied under 5 U.S.C. § 552(b)(4) (Exemption 2); and
- 148 redactions applied under 5 U.S.C. § 552(b)(5) (Exemption 4); and
- 157 redactions applied under 5 U.S.C. § 552(b)(5) (Exemption 5); and
- 531 redactions applied under 5 U.S.C. § 552(b)(6) (Exemption 6).

You'll find a detailed explanation of the applied exemptions below.

### **Explanation of Exemptions**

The FOIA generally requires the release of all agency records upon request. However, the FOIA permits or requires withholding certain limited information that falls under one or more of nine statutory exemptions (5 U.S.C. §§ 552(b)(1-9)). Further, section (b) of the FOIA, which contains the FOIA's nine statutory exemptions, also directs agencies to publicly release any reasonably segregable, non-exempt information that is contained in those records.

#### Exemption 2

Exemption 2 permits withholding of material "related solely to the internal personnel rules and practices of an agency" (5 U.S.C. § 552(b)(2)). BPA relies on Exemption 2 here to protect telephone meeting call-in numbers and related passcodes from public release. Information protected by Exemption 2 may be discretionarily released. BPA considered a discretionary release and determined that the subject information should not be released because doing so would hinder BPA internal procedures and policies.

#### Exemption 4

Exemption 4 protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." (5 U.S.C. § 552(b)(4)). Information is considered commercial or financial in nature if it relates to business or trade. This exemption is intended to protect the interests of both the agency and third party submitters of information. Prior to publicly releasing agency records, BPA was required by Exemption 4 to solicit objections to the public release of any third party's confidential commercial information contained in the responsive records set. BPA provided multiple submitters with an opportunity to formally object to the public release of their respective information contained in the responsive records. BPA received objections and has accepted those objections, either in whole or in part, based on guidance available from the U.S. Department of Justice. The agency is withholding submitters' commercial confidential information from public release. The FOIA does not permit a discretionary release of information otherwise protected by Exemption 4.

#### Exemption 5

Exemption 5 protects "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency" (5 U.S.C. § 552(b)(5)). In plain language, the exemption protects privileged records. The FOIA's Exemption 5 deliberative process privilege protects records showing the deliberative or decision-making processes of the agency. Records protectable under this privilege must be both pre-decisional and deliberative. A record is pre-decisional if it is generated before the adoption of an agency policy; a record is deliberative if it reflects the give-and-take of the consultative process, either by assessing the merits of a particular viewpoint, or by articulating the process used by the agency to formulate a decision. Here, BPA relies on Exemption 5 to protect deliberative and pre-decisional information—specifically, discussions related to various contracting processes for the acquisition and retention of supplemental labor.

Attorney-client privilege protects confidential communications between an attorney and a client relating to a legal matter for which the client has sought professional advice. The privilege encompasses facts provided by the client and opinions provided by the attorney. In this case, BPA asserts Exemption 5 to protect advice provided to BPA's Supplemental Labor Management Office related to the acquisition and retention of supplemental labor.

As directed by the FOIA, BPA is herein releasing segregable information from those records that do contain protectable information. Additionally, the FOIA encourages discretionary releases of information otherwise protected by Exemption 5. BPA has considered and declined a discretionary release of some pre-decisional and deliberative information in the responsive records set because disclosure of that information would harm the interests and protections encouraged by Exemption 5.

#### Exemption 6

Exemption 6 serves to protect Personally Identifiable Information (PII) contained in agency records when no overriding public interest in the information exists. BPA does not find an overriding public interest in a release of the information redacted under Exemption 6 — specifically, individuals' names, signatures, cell numbers, and personal matters. BPA cannot waive these PII redactions, as the protections afforded by Exemption 6 belong to individuals and not to the agency.

Lastly, as required by 5 U.S.C. § 552(a)(8)(A), information has been withheld only in instances where (1) disclosure is prohibited by statute, or (2) BPA foresees that disclosure would harm an interest protected by the exemption cited for the record. When full disclosure of a record is not possible, the FOIA statute further requires that BPA take reasonable steps to segregate and release nonexempt information. The agency has determined that in certain instances partial disclosure is possible, and has accordingly segregated the records into exempt and non-exempt portions.

#### **Certification**

Pursuant to 10 C.F.R. § 1004.7(b)(2), I am the individual responsible for the records search, redactions, and partial records release described above.

#### **Appeal**

Note that the records release certified above is partial. Additional records releases will be forthcoming as agency resources and records volumes permit. Pursuant to 10 C.F.R. § 1004.8, you may appeal the adequacy of the records search, and the completeness of this partial records release, within 90 calendar days from the date of this communication. Appeals should be addressed to:

Director, Office of Hearings and Appeals  
HG-1, L'Enfant Plaza  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585-1615

The written appeal, including the envelope, must clearly indicate that a FOIA appeal is being made. You may also submit your appeal by e-mail to [OHA.filings@hq.doe.gov](mailto:OHA.filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. (The Office of Hearings and Appeals prefers to receive appeals by email.) The appeal must contain all the elements required by 10 C.F.R. § 1004.8, including a copy of the determination letter. Thereafter, judicial review will be available to you in the Federal District Court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where DOE's records are situated, or (4) in the District of Columbia.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Phone: 202-741-5770  
Toll-free: 1-877-684-6448  
Fax: 202-741-5769>

Questions about this communication or the status of your FOIA request may be directed to James King, FOIA Public Liaison, at [jjking@bpa.gov](mailto:jjking@bpa.gov) or 503-230-7621. Questions may also be directed to E. Thanh Knudson, Case Coordinator (ACS Staffing Group), at 503-230-5221 or [etknudson@bpa.gov](mailto:etknudson@bpa.gov).

Sincerely,

Candice D. Palen  
Freedom of Information/Privacy Act Officer

[Attachments / Enclosures: Agency records responsive to FOIA request BPA-2021-00512-F accompany this communication.](#)