



OFFICE of INSPECTOR GENERAL
NATIONAL RAILROAD PASSENGER CORPORATION

Via Electronic Mail

September 29, 2023

Mr. John Edwards
Capitol Hellway Media Company LLC
7640 Rozzini Ln.
Naples, FL 34114
capitolhellway@gmail.com

Re: FOIA Request Acknowledgment Letter (Request ID 2023-OIG-014)

Dear Mr. Edwards:

Amtrak's Office of the Inspector General (OIG) received your request for information made under the Freedom of Information Act (FOIA) on September 15, 2023. After review of your submission, your request does not adequately describe the records being sought. You state that the "source" of your record request is Amtrak's Chief Executive Officer's, Stephen Gardner, emails (including attachments) as well as the same for Amtrak's Inspector General, Kevin Winters, but you fail to describe the records sought with sufficient detail to allow an individual to locate which record(s) you are requesting within these locations with a reasonable amount of effort. Further, this acknowledgment letter only addresses records for which are controlled, owned, or maintained by the Amtrak OIG. Amtrak is responsible for responding directly to you as related to Amtrak records.

The law specifies two requirements for proper FOIA requests: (1) it must "reasonably describe" the records sought; and (2) it must be "made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed." Significantly, courts have held that the requirements of the FOIA do not begin to apply until an agency receives a proper FOIA request.¹

¹ See, 5 U.S.C. § 552(a)(3)(A), (a)(6)(A); Borden v. FBI, No. 94-1029, 1994 WL 283729, at *1 (1st Cir. June 28, 1994) (per curiam) (affirming dismissal of case because request not proper where it failed to comply with agency regulations and did not reasonably describe records sought); Banks v. Lappin, 539 F. Supp. 2d 228, 235 (D.D.C. 2008) (finding that "[i]t cannot be said that an agency improperly withheld agency records if the agency did not receive a request for those records"); Antonelli v. ATE, No. 04-1180, 2006 WL 141732, at *2 (D.D.C. Mar. 17, 2006) (granting agency's motion for summary judgment because requester failed to comply with agency regulation requiring sufficient description of records sought in order that agency "with a reasonable amount of effort...[could] initiate a search...").

In addition, courts have found that requests that are so broad and sweeping wherein they lack specificity are not reasonably described.² The courts have explained that “[t]he rationale for this rule is that FOIA was not intended to reduce government agencies to full-time investigators on behalf of requesters,”³ or to allow requesters to conduct “fishing expeditions” through agency files. As a corollary to the “reasonably described” inquiry, courts have also held that agencies are not required to conduct wide-ranging, “unreasonably burdensome” searches for records.⁴

Based on the review of your FOIA submission, we were unable to ascertain the specific record(s) you are seeking. As a result, your request lacks specificity, does not reasonably or sufficiently describe the record(s) being sought, and is overbroad or unduly burdensome. In accordance with 49 C.F.R. 701.5(c)(2), “Amtrak is not obligated to act on a request until the requester provides sufficient information to locate the record.” Should you choose to do so, you may resubmit a revised FOIA request in accordance with the appropriate FOIA guidelines (e.g., describe, with sufficient specificity, the record(s) you are seeking, such as the topic, a specific timeframe, addressee of an e-mail, subject of an attachment, etc.). If I do not receive a revised request providing clarifying information related to the record(s) you are seeking within 10 business days from the date of this

² See, e.g., Freedom Watch, Inc. v. CIA, No. 12-0721, 2012 WL 4753281, at *6 (D.D.C. Oct. 5, 2012) (holding that request for “anything ‘relating to’ [several nations]” is “so broad as to impose an unreasonable burden upon the agency” (quoting Am. Fed’n of Gov’t Employees, Local 2782 v. U.S. Dep’t of Commerce, 907 F.2d 203, 209 (D.C. Cir. 1990)); Exxon Mobil Corp. v. U.S. Dep’t of Interior, No. 09-6732, 2010 WL 2653353, at *8 (E.D. La June 29, 2010) (finding requests for “any and all documents,” “any documents,” or “all documents” impermissibly broad).

³ See, e.g., Bloeser v. DOJ, 811 F. Supp. 2d 316, 321 (D.D.C. 2011) (reasoning that “[b]ecause ‘FOIA’ was not intended to reduce government agencies to full-time investigators on behalf of requesters, . . . [t]o the extent that plaintiff can identify documents which he believes exist in a particular office within [DOJ], such identifying information should have been included as part of his original FOIA request”); Frank v. DOJ, 941 F. Supp. 4, 5 (D.D.C. 1996) (stating that agency is not required to “dig out all the information that might exist, in whatever form or place it might be found, and to create a document that answers plaintiff’s questions”).

⁴ See, e.g., AFGE v. U.S. Dep’t of Commerce, 907 F.2d 203, 209 (D.C. Cir. 1990) (holding that “while [plaintiff’s requests] might identify the documents requested with sufficient precision to enable the agency to identify them . . . it is clear that these requests are so broad as to impose an unreasonable burden upon the agency,” because agency would have “to locate, review, redact, and arrange for [the] inspection [of] a vast quantity of material”); Van Strum v. EPA, Nos. 91-35404, 91-35577, 1992 WL 197660, at *1 (9th Cir. 1992) (accepting agency justification denying or seeking clarification of overly broad requests because agency not required to conduct search which would place inordinate burden on agency resources); Weirich v. Bd. of Governors of the Fed. Reserve Sys., No. CV-10-5031, 2010 WL 4717211, at *4 (E.D. Wash. Nov. 15, 2010) (determining that not only do requests for “any documents” by “any members” concerning “emergency funds” for “commercial banks which were nearly insolvent” lack specificity, but plaintiff’s request would “unduly burden the FOI Office and significantly interfere with the Board’s operations”).

acknowledgment letter, we will presume you are no longer interested in pursuing your request. In such a situation, if we are unable to act upon your request, we will administratively close our file on it. This does not preclude you from submitting another FOIA request later that does “reasonably describe” the records sought and is “made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed.”

We have not assessed any charges to you for processing this request. If you have any questions concerning this response to your request, please contact me.

Sincerely,

Nadine Bennett

Nadine J. Bennett
Associate Counsel
Amtrak Office of Inspector General