



United States Department of the Interior

NATIONAL PARK SERVICE
Pacific West Region
333 Bush Street, Suite 500
San Francisco, California 94104-2828



IN REPLY REFER TO:
A 7221 (PWR-PA)

11 JUL 2014

Jeff Ruch
Executive Director
Public Employees for Environmental Responsibility
2000 P Street, NW, Suite 240
Washington, DC 20036

Dear Mr. Ruch:

This letter is an interim response to your Freedom of Information Act (FOIA) request dated June 3, 2014 and received by National Park Service (NPS) FOIA Officer Charis Wilson on June 6, 2014. The Department of the Interior FOIA tracking number for this request is NPS-2014-00557. Please reference this number in any subsequent correspondence regarding your request.

Your request stated:

The June 2, 2014 edition of the Honolulu Advertiser newspaper reports that "Three investigations of National Park Service management at the USS Arizona Memorial have been conducted in the past year and a half over poor morale, the ticket sales issue and, most recently, an ethics probe of the ticket sales ..."

Pursuant to the Freedom of Information Act (5 U.S.C. 552), Public Employees for Environmental Responsibility (PEER) seeks copies of the referenced investigative reports concerning the operations of the USS Arizona Memorial.

The National Park Service located three records that relate to your request. Though none are titled "investigation" or specifically considered to represent an "investigative report," we have determined that these are related to the subject of your interest and therefore will consider them responsive to your request.

The first record is a briefing statement prepared by the law enforcement staff at World War II Valor in the Pacific National Monument and sent to the office of the Chief Ranger in the Pacific West Regional Office. This record, five pages in length, is withheld under the deliberative process privilege of Exemption 5 of the FOIA because it contains speculative opinions and allegations about job performance, behavior, and/or activities of both NPS employees and individuals outside the NPS. It is also withheld under Exemption 6 of the FOIA to protect the identities of employees and non-employees whose performance and/or behavior was questioned.

The deliberative process privilege of Exemption 5 of the FOIA (5 U.S.C. §552(b)(5)) protects the pre-decisional personal opinions, recommendations, and advice of staff members for use in making final agency decisions. Disclosure of such material would inhibit the open and candid expression of



such views in similar future deliberations, could confuse the public as to the official agency position on an issue, and have a detrimental effect on the agency's decision-making process. It permits an agency to withhold "interagency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency."

Exemption 6 of the FOIA protects the privacy rights of individuals, including assessments of employee job performance. You have not articulated any public interest that would outweigh the privacy interest were we to disclose this information about the subject individuals. Therefore, sound grounds exist for withholding the information pursuant to exemption 6 of the FOIA (5 USC §552(b)(6)) which permits an agency to withhold personal and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The second record documents an administrative inquiry to assess the work environment at the park. It was conducted by the Equal Opportunity Manager for the Pacific West Region. It contains numerous statements and opinions made by park staff or the Equal Opportunity Manager regarding the performance of park staff. This document (20 pages) is also denied under Exemption 6 of the FOIA.

In addition to the FOIA, the NPS follows Department of the Interior Information Resources Management (IRM) Bulletin 96-04 which guides bureaus regarding requests for personnel related information. You can obtain a copy of the bulletin at the following web site:
<http://www.doi.gov/foia/news/guidance/upload/Processing-FOIA-Requests-for-Personal-and-Personnel-Related-Information.pdf>.

The third record is a review of the park's ticket operation conducted by a team containing one individual each from the Pacific West Regional Office, the NPS Washington Office, and Department of the Interior Office of the Solicitor staff. The NPS intends to release this record to you. However, this record contains information that may be protected under Exemption 4 of FOIA (5 USC §552(b)(4)), which protects certain confidential commercial or financial information from public disclosure. Whenever the NPS receives a FOIA request for records containing information designated by the submitter as commercial or financial information or has reason to believe information may be protected by Exemption 4, the NPS is legally required to consult with the submitter before responding to the FOIA request. These consultation obligations are set out in 43 C.F.R. §2.27 through 2.36. These obligations include giving the submitter at least 10 workdays from the receipt of the NPS's written notice to the submitter regarding consultation to object to the release of information and to explain the basis for any objection. Ultimately, however, the NPS is responsible for deciding whether the information will be released or withheld.

Consistent with these obligations concerning potential Exemption 4 information, the NPS is advising Pacific Historic Parks (PHP) of your request and is providing it an opportunity to review and comment on the material. PHP will have 10 workdays from the date of receipt of the NPS's written notice to the submitter regarding consultation to object to the release of information and to explain the basis for any objection. While we are waiting for PHP's response, we will also review the document to see if any other redactions may be necessary under other FOIA exemptions.

Upon receipt of the response from PHP, we will make a final determination on whether to redact any confidential commercial or financial information, and then send our final response including the responsive record to you.

You have the right to appeal this initial response to your request. You may file an appeal by writing to:

Freedom of Information Act Appeals Officer
Office of the Solicitor
U.S. Department of the Interior
1849 C Street, NW
MS-6556-MIB,
Washington, D.C. 20240
foia.appeals@sol.doi.gov

Your appeal must be in writing and received no later than 30 workdays after the date our final response to this request. Your appeal should be accompanied by a copy of all correspondence between yourself and the NPS related to this request, along with a brief statement of the reasons why you believe any decisions in this response to be in error. The appeal should be marked "Freedom of Information Appeal" both on the envelope and on the face of the letter. Please note that appeals received after 5 p.m. EST will be considered to have been received as of the following day.

Also as part of the 2007 OPEN Government Act FOIA amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a nonexclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation.

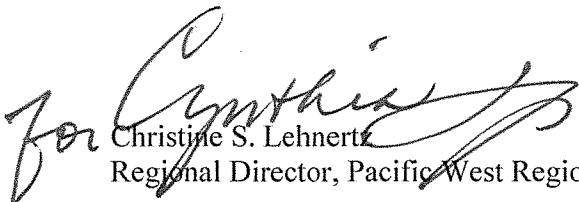
You may contact OGIS in any of the following ways:

Office of Government Information Services (OGIS)
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001

E-mail: ogis@nara.gov
Phone: 301-837-1996
Fax: 301-837-0348
Toll-free: 1-877-684-6448

Attorney Deborah Bardwick and FOIA Officer Kevin Killeen participated in the decisions regarding this response. If you have questions about the processing of your FOIA request, Mr. Killeen can be reached at 206-220-4051.

Sincerely,


Christine S. Lehnert
Regional Director, Pacific West Region

cc: Paul DePrey, World War II Valor in the Pacific National Monument