



Transactional Records Access Clearinghouse  
Syracuse University

March 16, 2009

Mr. R. Alan Miller  
General Counsel (Acting)  
U.S. Office of Personnel Management  
Room 7355, 1900 E Street NW  
Washington, DC 20415

RE: Freedom of Information Appeal of agency response to request for Organizational Component Translation files

Dear Mr. Miller:

In a letter dated December 2, 2008 we requested copies of the Organizational Component Translation (OCT) files that define how each federal agency is organized. An email acknowledgement of the receipt of our FOIA request was sent by OPM on the same day, December 2. A copy of our request letter is attached.

The OCT file is updated every six months. In our request we noted that the agency in the past had furnished us with earlier editions of the OCT files, and our request was simply asking for more recent versions.

FOIA requires that an agency respond within 20 business days. OPM did not comply with the law. Indeed, very belatedly and only after more than a dozen follow-up phone calls, Gary A. Lukowski, manager of OPM's Workforce Information and Planning Group, sent a letter in response to our request. A copy of his February 23, 2009 letter which withheld much of the information we requested is attached.

We appeal this unlawful withholding to you and ask for the immediate release of *all* requested information.

We wish to direct your attention to the spurious grounds that OPM Manager Lukowski gave to justify his withholding. He states that the outline of an organization's structure for an extensive list of agencies -- including U.S. Attorney offices and the Internal Revenue Service -- constitutes: "Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" under FOIA exemption six.

However, exemption six's threshold language limits it to "Government records on an individual which can be identified as applying to that individual." *U. S. Dept. of State v. Washington Post Co.*, 456 U.S. 595, 602 (1982). It does not apply to information unrelated to a particular individual. *Id.* The organizational component translation files, however, are not related to individuals at all.

OPM's website indicates that an OCT file simply contains an outline of each agency's organizational chart -- that is, a list in hierarchical order of the subunits within an agency along with a unique code assigned each unit for recording purposes. For example, we are enclosing the complete set

of OCT records we received from OPM in September 2006 pertaining to U.S. Attorney offices in response to a previous FOIA request. It is clear that it contains no information on particular individuals; it is simply an outline of how U.S. attorney offices were structured. Yet OPM is now withholding this very information from these same files.

How a federal agency has chosen to structure its organization clearly cannot by any stretch of the imagination invade the personal privacy of an individual since these records contain no information about any individual!!! To withhold such information is therefore on its face illegal. This is because the law requires that unless records are specifically exempt from disclosure, FOIA commands that the information *is public information and must be disclosed.*

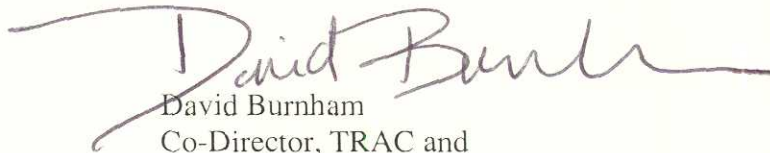
What is at stake here? Surely not personal privacy. Rather it is the desire to keep information confidential merely because public officials apparently wish to operate in secret. This thwarting of public transparency is exactly what the recent January 21, 2009 directive from President Obama to all heads of executive departments and agencies on the subject of the Freedom of Information *ordered agencies not to do.*

In closing we ask that you act expeditiously on this appeal and immediately release the requested records. At stake here is not simply the release of this particular information. At stake as well is the rule of law. The implicit question before you on appeal is whether OPM officials are free to do whatever they please without any need to follow laws passed by Congress. We sincerely hope this is not the vision of your agency that you wish to condone.

Sincerely,



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Enclosures:

1. December 2, 2008 FOIA request
2. February 23, 2009 OPM response
3. U.S. Attorney offices from previous OCT furnished in September 2006