

October 14, 2015

**VIA EXPRESS MAIL & FAX**

Office of Information Programs and Services  
A/GIS/IPS/RL  
U.S. Department of State  
Washington, D.C. 20522  
(202) 261-8579 Fax

**Re: Freedom of Information Act (FOIA) Request**

Dear FOIA Officer:

Subsequent to FOIA releases by the U.S. Department of State on 09/04/2013,<sup>1</sup> and pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, I hereby request that the Department of State produce the following within twenty (20) business days:

1. Any and all records concerning, regarding or related to the development, publishing and use of the official “State Department Policy on Social Media: 5 FAM 790.”<sup>2</sup>
2. Any and all records concerning, regarding or related to the development, publishing and use of the official “Managing Your Social Media field guide.”<sup>3</sup>
3. Any and all records concerning, regarding or related to the development, publishing and use of the official “Terms of Service (ToS) agreement with Facebook” and/or the “html template of general Facebook Terms of Use.”<sup>4</sup>
4. Any and all records concerning, regarding or related to the development, publishing and use of the four-part “FACEBOOK . . . A field guide for missions, posts and IRCs.”<sup>5</sup> The public FOIA records indicate these documents were published at least between July 26 – December 26, 2012. However, internal references to earlier dates were made “Many posts have created Facebook Pages”<sup>6</sup> which presumably carried the terms of service prior to these dates.
5. Any and all records concerning, regarding or related to the development, publishing and use of the email address “USgovernment@fb.com.”<sup>7</sup>

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<sup>1</sup> U.S. Department of State, Case No. F-2012-29278, 09/04/2013.

<sup>2</sup> [FACEBOOK Part 1: Getting Started with Facebook](#) – A field guide for missions, posts and IRCs. U.S. Dept. of State, Case No. F-2012-29278, Doc. No. C05371180, 09/04/2013, p. 3, ¶1.

<sup>3</sup> *Id.*, ¶3.

<sup>4</sup> *Id.*, ¶¶10, 11.

<sup>5</sup> [FACEBOOK Part 1: Getting Started with Facebook](#), Dec. 26, 2012. *U.S. Dept. of State*, Case No. F-2012-29278, Doc. No. C05371180, 09/04/2013.

[FACEBOOK Part 2: Creating and Customizing Your Page](#), Jul. 26, 2012. *U.S. Dept. of State*, Case No. F-2012-29278, Doc. No. C05371175, 09/04/2013

[FACEBOOK Part 3: Creating and Customizing Groups](#), Oct. 24, 2012. *U.S. Dept. of State*, Case No. F-2012-29278, Doc. No. C05371173, 09/04/2013

[FACEBOOK Part 4: Metrics, Analytics and Resources](#), Jul. 27, 2012. *U.S. Dept. of State*, Case No. F-2012-29278, Doc. No. C05371179, 09/04/2013

<sup>6</sup> *Id.*, [FACEBOOK Part 1, Getting Started with Facebook](#), p. 3, ¶5.

<sup>7</sup> *Op. cit.*, [FACEBOOK Part 2: Creating and Customizing Your Page](#), p. 3, ¶5, bullet 4.

I call your attention to President Obama's January 21, 2009 Memorandum concerning the Freedom of Information Act, in which he states:

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA . . . The presumption of disclosure should be applied to all decisions involving FOIA.<sup>8</sup>

The President's memorandum further provides that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

Nevertheless, if any responsive record or portion thereof is claimed to be exempt from production under FOIA, please provide sufficient identifying information with respect to each allegedly exempt record or portion thereof to allow me to assess the propriety of the claimed exemption. *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). In addition, any reasonably segregable portion of a response record must be provided, after redaction of any allegedly exempt material. 5 U.S.C. § 552(b).

For purposes of this request, the term "record" shall mean: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, facsimiles, papers, forms, telephone messages, diaries, schedules, calendars, chronological data, minutes, books, reports, charts, lists, ledgers, invoices, worksheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazine or newspaper articles, or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail; (3) any audio, aural, visual, or video records, recordings, or representations of any kind; (4) any graphic materials and data compilations from which information can be obtained; and (5) any materials using other means of preserving thought or expression.

I request a waiver of both search and duplication fees pursuant to at least 5 U.S.C. §§ 552(a)(4)(A)(ii)(II) and (a)(4)(A)(iii). I am entitled to a waiver of search fees under 5 U.S.C. § 552(a)(4)(A)(ii)(II) since I am a freelance writer and published author and therefore classify as "representative of the news media." The information requested about social media uses and policies of the federal government is, by direct inference, in the public "social" interest. I use my editorial skills to turn such information into distinct works and disseminate those works to the public. I intend to do likewise with the records I receive in response to this request.

I am also entitled to a complete waiver of both search fees and duplication fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Under this provision, records:

[S]hall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of government and is not primarily in the commercial interest of the requester.

5 U.S.C. § 552(a)(4)(A)(iii).

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<sup>8</sup> Freedom of Information Act. [Presidential Memorandum of January 21, 2009](#), 74 Fed. Reg. 4683, Vol. 74, No. 15, FR Doc. E9-1773, Filed 1-23-09; 11:15 am.

In addition, if records are not produced within twenty (20) business days, I am entitled to a complete waiver of search and duplication fees under Section 6(b) of the OPEN Government Act of 2007, which amended FOIA at 5 U.S.C. § (a)(4)(A)(viii).

Given these circumstances, I am entitled to a public interest fee waiver of both search costs and duplication costs. Nonetheless, in the event my request for a waiver of search and/or duplication costs is denied, I am willing to pay up to \$30.00 in search and/or duplication costs. I request that I be contacted before any such costs are incurred or if the costs must be higher for any reason, in order to prioritize search and duplication efforts.

In an effort to facilitate record production within the statutory time limit, I am willing to accept (and prefer to accept) documents in electronic format (e.g. e-mail, .pdfs). When necessary, I will also accept the "rolling production" of documents.

If you do not understand this request or any portion thereof, or if you feel you require clarification of this request or any portion thereof, please contact me immediately at (614) 890-1986 or mmckibben@leader.com. I look forward to receiving the requested documents and a waiver of both search and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

/S/

Michael T. McKibben

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[REDACTED]  
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