

National Aeronautics and
Space Administration
John H. Glenn Research Center
Lewis Field
Cleveland, OH 44135-3191



AUG 8 2008

Reply to Attn of: X

FedSources
Attn: Rajitha Uppalli
8400 Westpark Dr., 4th Floor
McLean, VA 22102

Subject: Freedom of Information Act Request No. GRC-08-039

This letter is to advise you that a releasability determination regarding NASA contract NNC08BA05B including attachments has been made. This determination has taken into consideration the relevant statutes, case law, and guidance, as well as comments received from the Contracting Officer. Accordingly, it is my decision to partially deny your request. The basis for this partial denial is set forth below.

The following information listed in the contract has been identified as exempt from release under Exemption 4 of the FOIA, 5 U.S.C § 552(b):

Contract NNC08BA05B:

- Page 7, Clause B.1 entitled "Estimated Costs and Fixed Fee". The dollar amounts listed for the estimated cost and fixed fee amounts for the base period, each option year and the total contract.
- Page 35, Clause I.43 entitled "Advance Payments – Advance Payments Without Special Account". The dollar amount listed in paragraph (d), page 35, first sentence that discuss "other payments equal to the total estimated cost of.....".
- Page 52, Clause J.1 entitled "List of Attachments". Attachment "A", the 11-page Small Business Subcontracting Plan.
- Page 52, Clause J.1 entitled "List of Attachments". Attachment "B", the 22-page Safety and Health Plan.

The information identified above is exempt from release under Exemption 4 of the FOIA as "commercial and financial information, and obtained from a person, as privileged or confidential." This information reveals the unique methods, procedures, and/or techniques employed by the contractor to accomplish the contract, and therefore, is considered to be confidential. The initial determination has been made that the information is exempt from release under the Freedom of Information Act, 5 U.S.C. § 552(b)(4).

In order to properly and effectively conduct procurements, it is necessary for the Government to obtain detailed technical, financial, and commercial data. Only through evaluation of complete and accurate data of this type can the Government hope to negotiate an agreement that best meets its requirements, both cost and technical. It is mandatory that the federal procurement process be handled in a manner that fosters and promotes uninhibited transmission of confidential material. In short, public disclosure of this information would undermine the integrity of the federal procurement process.

In addition to protecting the Government's ability to obtain necessary information, exemption (b)(4) protects the competitive position of submitters. Disclosure of the requested information could cause substantial competitive injury to submitters because it would reveal insights into their business practices. Again, public disclosure of this information would undermine the integrity of the federal procurement process.

There is no charge for processing this FOIA request.

You may appeal this initial determination to the NASA Administrator. Your appeal must (1) be addressed to the **Administrator, National Aeronautics and Space (NASA), Mail Stop: P, 300 E. Street SW, Washington, DC 20546**; (2) be clearly identified on the envelope and in the letter as an "Appeal under the Freedom of Information Act (FOIA)"; (3) include a copy of the request for the Agency record and a copy of this initial determination; (4) to the extent possible, state the reasons why you believe this decision should be reversed; and (5) be sent to the Administrator within 30 calendar days of the date of the receipt of this initial determination.

If you need further assistance, please contact Angela Pierce, FOIA Officer, at (216) 433-2813 or via e-mail at foia@grc.nasa.gov.



Howard D. Ross
Acting Director of External Programs