



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

BRAD D. SCHIMEL
ATTORNEY GENERAL

Paul W. Connell
Deputy Attorney General

Delanie M. Breuer
Chief of Staff

17 W. Main Street
P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

Paul M. Ferguson
Assistant Attorney General
fergusonpm@doj.state.wi.us
608/266-1221
TTY 1-800-947-3529
FAX 608/267-2779

August 10, 2018

Thomas C. Kamenick
Wisconsin Institute for Law & Liberty
1139 East Knapp Street
Milwaukee, WI 53202

Dear Mr. Kamenick:

This is in response to your correspondence, received on August 8, 2018, in which you requested the following records:

- 1) Any report, documentation, or communication that shows how the DOJ calculated its costs for paper copying.
- 2) a. Copies of any communication from DOJ to an authority or record custodian regarding a methodology for determining per-page charges or charges for digital files sent since 1/1/18.

b. A template, sample response, or any document that would explain to an authority or custodian the methodology for determining per-page charges or charges for digital files.

The Department of Justice (DOJ) construes your correspondence as a public records request pursuant to the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39.

Regarding your request # 1, we identified records responsive to your request, which we are providing to you with one redaction as explained below. In your request, you wrote that "a single record or the smallest number of records that can show the complete calculations would be fine." If you find that the enclosed records do not satisfy your request, please contact me.

A tax identification number was redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. The tax identification is analogous to social security numbers in its relationship to tax records and other financial information of DOJ. I determined that the public interest in preventing misappropriation or other misuse of this economically valuable information following any subsequent disclosure, as well as the public policies outlined in Wis. Stat. §§ 801.19, 801.20, and 801.21, outweigh the public interest in disclosure.

Regarding your requests # 2)a and b, we have no records responsive to these portions of your request. The public records law “does not require an authority to provide requested information if no record exists, or to simply answer questions about a topic of interest to the requester.” *Journal Times v. City of Racine Board of Police and Fire Commissioners*, 2015 WI 56, ¶ 55, 362 Wis. 2d 577, 866 N.W.2d 563; see also *State ex rel. Zinngrabe v. Sch. Dist. of Sevastopol*, 146 Wis. 2d 629, 431 N.W.2d 734 (Ct. App. 1988). Regarding your request # 2)a, most questions from authorities regarding fees are handled through our Public Records/Open Meetings help line and are handled via the telephone. Regarding your request #2)b, DOJ's Public Records Law Compliance Guide and DOJ's public records request fee schedule are the resources to which individuals seeking information on fees have been directed. If you require copies of these documents, which are available through our website, please contact me.

The law permits DOJ to impose fees for certain “actual, necessary and direct” costs associated with responding to public records requests. Wis. Stat. § 19.35(3). Pursuant to Wis. Stat. § 19.35(3)(f), DOJ may require prepayment for the costs of locating (if applicable), copying, and mailing the requested records if the total amount exceeds \$5.00. Pursuant to Wis. Stat. § 19.35(3)(e), in this instance, DOJ is waiving its fees associated with responding to your request. Enclosed, please find the records responsive to your request.

Pursuant to Wis. Stat. § 19.35(4)(b), this determination is subject to review by mandamus under Wis. Stat. § 19.37(1) or upon application to a district attorney or the Attorney General.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul M. Ferguson', with a long horizontal flourish extending to the right.

Paul M. Ferguson
Assistant Attorney General
Office of Open Government

PMF:cks

Enclosure