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September 1, 2017

Scot Ross
One Wisconsin Now
own@onewisconsinnow.com

Dear Mr. Ross:

This letter is in response to your correspondence, dated June 29, 2017, requesting "copies of any and all electronic records in the possession of the Department of Justice related to pricing, design, purchases, invoices, payment, and/or e-mail correspondence regarding all promotional items or 'swag' (including but not limited to coins, coffee mugs or tumblers, stickers, bags, etc.)." The Department of Justice (DOJ) construed your correspondence as a public records request pursuant to the Wisconsin Public Records Law, Wis. Stat. §§ 19.31 to 19.39.

At the onset, I want to clarify a few points regarding our response to your request. First, in your request, you referred to "promotional items or 'swag,'" and you provided examples. For the purposes of our response, we construed your request as referring to promotional items that DOJ provided to attendees at conferences and training events, as is a standard practice at most similar conferences held throughout the United States. We also included records regarding coins because you specified coins in your request, although they are not promotional items or "swag." Second, the timeframe of our response is larger than that specified in your request. DOJ received similar requests from other requesters in close proximity to your request. In the interest of governmental transparency and efficiency, we are providing records responsive to all such requests to each requester. Finally, our response to your request includes spreadsheets reflecting these promotional items and coins. The spreadsheets were prepared for internal use at DOJ. Because of the specific nature of your request, the spreadsheets may not align exactly with the purchasing-card (p-card) logs.

Your correspondence is a modified request of an earlier request from Jenni Dye of One Wisconsin Now. Ms. Dye's request sought "all records" whereas your request seeks "all electronic records." We denied Ms. Dye's request as insufficient and overly burdensome although we invited Ms. Dye to narrow and re-submit her request.

We reviewed our files and identified records responsive to your request. In order to provide you with the most responsive records, and in our efforts to maintain transparency,

we determined to produce the p-card logs referenced in our response to Ms. Dye's earlier request. We are providing you with the records with redactions as explained below.

Bank account numbers, credit card numbers, bank authorization codes, wire ABA numbers, ach ABA numbers, swift codes, transaction ID numbers, e-signature numbers, frequent flyer numbers, and GSA contract numbers have been redacted pursuant to Wis. Stat. § 19.36(13). To the extent such redacted information is not directly governed by Wis. Stat. § 19.36(13), this information, as well as DOJ bank account numbers and credit card numbers, have also been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test, to protect against identity theft or other unauthorized use following any subsequent disclosure. The public interest in protecting this kind of economically valuable information from misappropriation or misuse is recognized in Wis. Stat. § 19.36(13), which prohibits disclosure of financial identifying information of individuals. Although Wis. Stat. § 19.36(13) may not apply to all of the redacted information, such as the DOJ financial information, the same public interest in protecting financial identifying information from misappropriation or other misuse applies here. Therefore, I determined that the public interest in protecting this economically valuable information from misappropriation or misuse outweighs any public interest in disclosure.

Social security numbers have been redacted to protect against identity theft or other unauthorized use following any subsequent disclosure. In performing the public records balancing test pursuant to Wis. Stat. § 19.35(1)(a), I concluded that the public interest in protecting the confidentiality of this economically valuable individually identifiable information, as well as the public policies outlined in Wis. Stat. §§ 801.19, 801.20 and 801.21, outweigh any public interest in disclosure of the social security numbers.

Federal tax identification numbers (FEIN numbers) have been redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. These numbers are analogous to social security numbers in their relationship to tax records and other financial information of the assigned entities. I determined that the public interest in preventing misappropriation or other misuse of this economically valuable information following any subsequent disclosure outweighs the public interest in their disclosure.

The home address of an employee was redacted pursuant to Wis. Stat. § 19.36(10)(a).

Cell telephone numbers and personal electronic mail addresses were redacted pursuant to the Wis. Stat. § 19.35(1)(a) balancing test. In performing the balancing test, I determined that the public interest in disclosure of this information is outweighed by the public interest in the expectation of privacy on the part of individuals in their personal lives. Additionally, well-established public policy recognizing the confidentiality and privacy of the personal contact information of an authority's employees is expressed in Wis. Stat. § 19.36(10)(a). Although that statute does not directly govern the redacted information, I find that the same underlying public policy of protecting the confidentiality and privacy of personal contact information outweighs any public interest in disclosure of this information.

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). DOJ may also

impose a fee for locating a record if the cost is \$50 or more. Wis. Stat. § 19.35(3)(c). 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. Much of DOJ's location costs were accrued by an unpaid, summer extern, and DOJ determines the rate for the actual, necessary, and direct charge for staff time for locating records based on the pay rate of the lowest paid employee capable of performing the task. Therefore, 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:acg

Enclosures