

REPORT FOR PUBLIC RELEASE

TO: INTERESTED PARTIES
FROM: CoA STAFF
DATE: OCTOBER 12, 2012
RE: INTERNAL REVIEW OF CoA REPORT RE: DHS OIG EXPENDITURES

Summary

Because the DHS OIG office has stated publicly and in written form that CoA made “erroneous” statements and was “inaccurate”, CoA has conducted an internal review of the facts and circumstances of its report. CoA stands by all factual allegations in its promotional items report. As agreed between Cause of Action and DHS OIG, the initial press release was revised to remove any potential for confusion over the facts, although CoA stands by the original release, attached herein at Exhibit 6. Moreover, CoA has taken the time to conduct an internal review and report on that review to acknowledge that (1) DHS OIG spent taxpayer funds on cash awards to its employees, (2) CoA reported on documents concerning those awards as documents received via our Freedom of Information Act (FOIA) request, (3) this created the potential for confusion as third-parties interpreted the documents to be promotional items, however, (4) CoA made no factual inaccuracies and DHS OIG failed to conduct an internal review of its FOIA procedures or admit that it spent tax dollars on promotional items (*See Exhibits 3 and 5*) – instead choosing to attack Cause of Action in a public press release.¹

CoA believes that this report represents a high degree of care taken by Cause of Action’s staff to clarify the facts at issue between DHS OIG and CoA. CoA believes it is important to note, that on the basis of CoA’s internal review, CoA made the following findings:

- DHS OIG counsel does not review FOIA productions for substantive accuracy;
- The DHS IG did not coordinate with his FOIA office or counsel to ensure that what was produced to Cause of Action was accurately responsive to the FOIA request;
- DHS OIG FOIA staff produced documents concerning cash awards as responsive to a FOIA request concerning commemorative items;
- DHS OIG appears to have awarded commemorative items to federal government employees who have the ability to investigate the acting IG, Mr. Charles Edwards. According to information shared with Cause of Action, items were personally provided by Mr. Edwards to staffers from the U.S. House of Representatives, Committee on Oversight and Government Reform and attorneys from the U.S. Department of Justice.

Facts Concerning the CoA Investigation

¹ Press Release, Office of Inspector General, Department of Homeland Security, *available at* http://www.oig.dhs.gov/assets/pr/oigpr_101112.pdf.

On April 4, 2012, Cause of Action (CoA), a taxpayer watchdog group, submitted a Freedom of Information Act request to the Department of Homeland Security (DHS) Office of Inspector General (OIG) focusing on DHS OIG's "commemorative item[]" spending.²

E-mails between Nikki Gramian, an employee in the Office of Counsel at DHS OIG, and a former staffer of Cause of Action help explain the circumstances surrounding CoA's investigation. An e-mail on April 16, 2012 from Ms. Gramian to CoA staff with the subject line "FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75) states, in pertinent part³:

From: Gramian, Nikki [mailto:Nikki.Gramian@oig.dhs.gov]
Sent: Monday, April 16, 2012 12:19 PM
To: [REDACTED]
Cc: [REDACTED] Kuehn, Stephanie
Subject: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

Hi [REDACTED]

Thank you for our telephone conversation of this morning regarding your FOIA request for all OIG records showing "the acquisition or use of commemorative items, including but not limited to coins, trophies, certificates or any other form of token or award."

To confirm our conversation, you agreed to obtain a list, or if one available, an excel spread sheet showing the following information:

Date,
Name of awardees,
Type of award (i.e. plaques, trophies, coins),
Purpose (i.e. retirement), and finally
Cost of the item.

You also stated you are not interested in certificates that are printed in house.

I just left you a voice message about "on the spot cash awards." So a follow up email **will be sent** regarding cash awards after I get clarification on this issue.

Kindly acknowledge this agreement so that we can send our search request to our acquisition division to compile a list with the above-referenced fields.

Thank you.

Nikki Gramian
DHS/Office of Inspector General
Office of Counsel
(202) 254-4001

This e-mail reflects Mr. Gramian's judgment that "on the spot cash awards" may be responsive to CoA's FOIA request concerning commemorative items. A response from a former Cause of Action staff member that same day asked Ms. Gramian to clarify her question concerning "on the spot cash awards":

² See Exhibit 1.

³ See Exhibit 2.

From: [REDACTED]
Sent: Monday, April 16, 2012 1:55 PM
To: Gramian, Nikki
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

Hi Ms. Gramian,

The below e-mail is indeed an accurate representation of our conversation, except where you state "you agreed to obtain a list. . ." I'm sure that this is just a typo, but to be clear we agreed that your office would obtain a list. I would have no way of obtaining such a list. Besides this small mistake your e-mail is entirely accurate. I enjoyed our call this morning and apologize that I was at lunch during your second call. Feel free to reply to this email with your question regarding "on the spot cash awards."

Best,

[REDACTED]

Ms. Gramian replied with the following e-mail:

From: Gramian, Nikki
Sent: Monday, April 16, 2012 2:57 PM
To: [REDACTED]
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

[REDACTED] Thank you for your clarification below. What I meant by saying "you agree to obtain. . ." was that our office would compile a list and provide you the list which will have the information I outlined below (e.g., date, name of awardees. . .)

Regarding the "on the spot cash award" issue, the topic is lengthy. Do you mind if I chat with you about it first, then type up the outcome of the clarification I am seeking?

Sometime between 2:57 PM EST on April 16, 2012 and 4:19 PM EST that day, a conversation between Ms. Gramian and a CoA staff member occurred concerning "on the spot cash award[s]". After this call, Ms. Gramian sent the following e-mail:

From: Gramian, Nikki [mailto:Nikki.Gramian@oig.dhs.gov]
Sent: Monday, April 16, 2012 4:19 PM
To: [REDACTED]
Cc: Gramian, Nikki
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

[REDACTED]

This follow-up email confirms our understanding regarding your request for "on the spot cash awards." Per our conversation, you agreed that OIG FOIA unit shall produce a list of all cash awards OIG employees and other individuals outside of OIG have received from January 2009 to present. This list will have the following fields:

Date,
name of awardees,
type of cash award, (e.g. on the spot cash award), and
amount of cash received.

Kindly confirm this understanding.

Less than 5 minutes after receiving this e-mail, the CoA staffer replied:

Gramian, Nikki

From: [REDACTED]
Sent: Monday, April 16, 2012 4:23 PM
To: Gramian, Nikki
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

Ms. Gramian,

This is correct. Thank you for your time and energy on this matter.

[REDACTED]

It appears that the CoA staffer was led to believe that these awards would be responsive to CoA's original FOIA request to DHS OIG concerning promotional items. This staffer left in May 2012.

In response to CoA's FOIA request, the DHS OIG FOIA office produced three separate document files. "Document 1" and "Document 3" included files on commemorative items given to both DHS employees as well non-DHS employees. Document 2 included documents of employee awards, which ranged from spot-bonus cash awards on an individual and group basis, performance cash awards on an individual and group basis, and cash-based superior accomplishment awards.⁴

It appears the documents produced by DHS OIG, Document 1, Document 2, and Document 3, inclusive, was interpreted by CoA staff to be responsive documents concerning the FOIA request regarding promotional item spending. At no point did Ms. Gramian, or any other DHS OIG staffer, inform CoA or any of its staff that Document 2 did not consist of promotional items. It is CoA's position that DHS OIG reasonably interpreted Document 2 to contain information responsive to CoA's request concerning promotional item spending at DHS OIG.

⁴ See Exhibit 3.

Katherine R. Gallo's, Assistant Counsel to the Inspector General, July 31, 2012 letter to Cause of Action specifically stated:

This is an interim response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated April 4, 2012, and seeking records pertaining to commemorative items (copy attached for reference). Your request was received in this office on April 5, 2012.

Facts Concerning the CoA Internal Review

Because the original CoA staffer charged with the FOIA investigation on this matter left in May 2012, other CoA staff was assigned the matter when production from DHS OIG was received on July 31, 2012. An internal review conducted between October 9, 2012 and October 12, 2012 at CoA revealed that the staffer assigned to the review of documents for the promotional items report reasonably believed that the July 31, 2012 document production by DHS OIG concerned promotional items, as it was in response to a promotional items FOIA request. On August 17, 2012, this review of DHS OIG documents was first included in a draft report. At the end of September, 2012, CoA staff reviewed the entire draft report to confirm that the citations and examples used in the report were confirmed by the production. While CoA staff identified several examples in the DHS OIG section that needed confirmation, specific attention was not called to Document 2 and its "awards." These documents were instead used to serve as data in order to report the total amount of spending identified by the nine agencies selected by Cause of Action staff for the report. This data was reviewed and confirmed by several CoA staff members. At the beginning of October, 2012, CoA staff again confirmed the draft report footnotes and citations for accuracy, support of the propositions and facts they referred to, as well as Bluebooking and cite-checking. Exhibit documents for the report were also prepared, however, "Document 1", "Document 2", and "Document 3" were not included as exhibits. Upon review, CoA staff explained that the DHS OIG spreadsheets were not included as exhibits because the data was not used to provide evidentiary support for a specific example in the report. Nevertheless, the report did make parenthetical references to the documents. CoA staff stated they generally only included as "Exhibits" the actual, specific pages in productions that supported specific examples of promotional item spending. Similarly, CoA staff did not include correspondence with the agencies, including their cover letters for productions.

The CoA staff explained that DHS OIG provided documents on promotional item spending. Document 1 is titled "Office of Audits – Commemorative Item Awards" and includes a table/spreadsheet with a column for "Type of Award," which include plaques, paperweights and shadow boxes (amongst other things), along with a column titled "Purpose of Award" and "Cost of Item". Purposes included "Retirement from federal government" and "Work with Recovery Audits," for example.

Document 3 is a near identical table/spreadsheet titled "Office of Management – Other Comemorative [sic] Items (2009-2012)". It has almost all the same columns, including "Type of Award," "Purpose of Award" and "Cost." Items include plaques, shadow boxes, etc. Purposes include "Retirement" and "Recognition." There is also another table/spreadsheet titled "Office

of Management – Recognition and Appreciation (2009-2012)” that is basically the same, but with a more general description of award types and purposes (every single one, several dozen, is a “plaque/trophy” for “Recognition/appreciation”). Finally, there is one more table/spreadsheet for “Office of Management – Retirement Awards (2009-2012)” with similarly generic (“Plaque” for “Retirement” for about 25-30 awards).

Document 2 consists of a table/spreadsheet that is similar in form to the representation of data in Documents 1 and 3. Document 2 contains a column for “Date Received”, “Employee Name” (all redacted, like in the other documents), “Type” (where we have “Perf-Cash,” “SPOT-Cash” and “S/A Cash” listed as types) and the amount of the award.

CoA staff believed, based on the type and form of the documents, as well as the original FOIA request made to DHS OIG, that DHS OIG believed these awards to be responsive as promotional item awards. CoA staff did not report this data as “promotional items” in its report, instead reporting this data as part of information concerning expenditures.

Circumstances relating to CoA’s communications with DHS OIG

After the report was released on October 9, 2012, William Hillburg, the acting Director of Public Affairs at DHS OIG, sent the following e-mail to Cause of Action’s “Contact Us” landing page on its website:

Cause of Action’s Coin for Coins report on the Office of Inspector General, Department of Homeland Security, is incorrect, DHS OIG did not spend \$700,000 in 2010 on coins and other awards. That amount was spent on employee performance awards, based on merit and following a full evaluation of each employee for their work during FY 2010. DHS OIG has more than 700 employees, so the average award was less than \$1,000. I would like a correction to be issued by Cause of Action to clear up this matter and would be glad to assist you in determining the error you may have derived from a FOIA request. In future, I would appreciate the courtesy of a call before you issue a report, so that we may comment on or clear up any matters before they are given to media outlets.⁵

On October 10, 2012, Daniel Epstein, CoA’s Executive Director, called Mr. Hillburg’s office to discuss the above e-mail. After the conversation, Epstein sent an e-mail to Mr. Hillburg, with the subject line “Memorializing our 10/10/2012 Conversation” in which the following was stated:

Mr. Hillburg:

I want to summarize our Wednesday October 10, 2012 telephonic conversation that occurred at approximately 10:30 AM EST.

⁵ See Exhibits 7 and 8.

Thank you for getting back to me today. The Cause of Action report at page 13 states: "'Document 2' revealed that a total of almost \$700,000 was spent on 'awards' by eight DHS OIG departments in just the 2010 fiscal year alone." At no point did Cause of Action identify these expenditures as for promotional items. We agreed that the reporter may have mischaracterized this evidence so as to lead the reader to assume this spending was on promotional items. We agreed the document, which is attached, reveals that these expenditures were mostly cash and spot bonuses and not promotional items as contemplated by EO 13589.

We also discussed that the original FOIA request, attached, was narrowly tailored to promotional items and a reasonable person would expect that the production of relevant documents concerning awards would refer or relate to promotional items based on the language of the request. We were informed that Counsel reviews FOIA productions only for concerns about privilege and disclosure. We were informed that Counsel does not review productions for accuracy. It was your opinion that the documents did not concern promotional items and you advised that the accuracy of such productions could be referred to your office for verification.

You mentioned in your e-mail that the CoA report was "incorrect" and we discussed and agreed that there were no material misrepresentations of fact in the CoA report. You also state in your e-mail that the awards were based on merit, following a full evaluation of the employees. We did not discuss what OPM Nature of Action Codes (NOAC) applied to these awards, as it appears there are individual (NOAC 879 and NOAC 840 awards) and group awards (NOAC 841). For NOAC 879, 5 U.S.C. § 5384 applies, which requires performance review board recommendations for any bonus; NOAC 840 awards are interpreted under 5 USC § 4505a, which does not require board recommendations; and "Agency awards for cost savings disclosures" are interpreted under 5 U.S.C. § 4512. But I wanted to be clear that we did not discuss the NOAC or statutory bases for the awards.

I hope this clarifies our conversation and I appreciate your interest in Cause of Action. My best to Mr. Edwards.

Very truly yours,

Daniel Z. Epstein

Later that day, Mr. Hillburg sent Mr. Epstein the following e-mail:

Daniel Epstein

From: Hillburg, William <William.Hillburg@oig.dhs.gov>
Sent: Wednesday, October 10, 2012 2:29 PM
To: Daniel Epstein
Cc: Edwards, Charles
Subject: Cause for Action update

Follow Up Flag: Follow up
Flag Status: Flagged

Your summary is accurate, but I believe the entire section of your report dealing with DHS OIG should be deleted as incongruous and erroneous. Your report, as titled and in all other cited examples, is about coins and other promotional items. Our awards are not trinkets, they are bonuses for exemplary employee performance, a program used throughout the Federal Government and used sparingly by DHS-OIG. Given our more than 700 employees, the \$700,000 outlay averaged less than \$1,000 per employee, minus the normal payroll deductions. At the very least, your report needs to be revised to include an extensive clarification as to the true nature of our "awards", and the misinterpretations by your staff that led you to misrepresent them. Reviewing the OIG data you used, I find it hard to believe that outlays with notations such as "spot cash" could be interpreted by Cause for Action to be commemorative coins or other trinkets.

I agree the Fox News went over the top with its story, but it later updated it with information from us on the nature of our outlay and comments from Mr. Edwards. Your error, based on your misinterpretation of the FOIA docs you received, and our process for issuing them, resulted in a false and negative depiction of this office. It's an honest mistake that needs to be rectified. If you had called the Office of Public Affairs to verify, it's a mistake that would have never happened.

Daniel Epstein did not reply to this e-mail as it appeared to contradict the agreement made earlier between CoA and DHS OIG, which included CoA's providing "Document 2" to members with the press as well as revising its press release.⁶ This also appeared to directly contradict Mr. Hillburg's claim, via e-mail, that Mr. Epstein's summary of the facts was "accurate".

On Thursday, October 11, 2012, Mr. Hillburg sent the following e-mail to Mr. Epstein:

⁶ See Exhibit 6. CoA also stands by the facts of its press release but amended it because it caused confusion to third-parties.

From: Hillburg, William <William.Hillburg@oig.dhs.gov>
Sent: Thursday, October 11, 2012 8:57 AM
To: Daniel Epstein
Cc: Edwards, Charles; Morales, Arlen
Subject: Your erroneous report

Please notify me when you have posted a revised version of your report and a clarification/retraction. Also, please notify the staff of Government Executive, which today has a rewrite of your erroneous report. This office has already alerted them. You need to remediate this damage ASAP.

Bill Hillburg, Acting Director
Office of Public Affairs
Office of Inspector General
Department of Homeland Security
(202) 254-4070

Epstein did not reply to this e-mail. Instead, Mr. Epstein again telephoned Mr. Hillburg. According to Mr. Epstein, Mr. Hillburg was hostile, calling Cause of Action's journalism "shoddy", and attacking the credibility of *Fox News* and *Government Executive*. Mr. Epstein was placed on the phone with Ric Reback, Counsel to IG Edwards. Mr. Epstein explained that Mr. Hillburg's statements were hostile. Mr. Reback indicated he would call back Mr. Epstein when he got more facts. This did not occur. When Mr. Epstein was placed back on the phone with Mr. Hillburg, Mr. Epstein quickly ended the conversation.

DHS OIG's Misrepresentation of Facts and CoA's Response

On the morning of October 12, 2012, a report in *Government Security News* magazine stated, "A government watchdog group's report accusing the DHS Inspector General's office of giving out over a half million in swag is misleading and questionable, said the inspector general's office."⁷ The article also stated the "DHS OIG . . . called the report inaccurate and misleading."⁸ According to a statement by DHS OIG cited in the article, "The watchdog group Cause of Action recently released a report that inaccurately combined the OIG's employee performance award program with an array of questionable, wasteful government agency outlays for commemorative coins and other trinkets."⁹ The article stated, "The OIG statement said it had reached out to Cause of Action, asking the organization to revise the report and remove all references to OIG."¹⁰

On October 12, 2012, *Federal News Radio* reported, "One inspector general is saying an outside group has been too quick to accuse his office of wasteful spending. The Homeland Security Department IG said Cause of Action 'mischaracterized' about \$700,000 in spending."

⁷ See Government Security Magazine article, available at http://www.gsnmagazine.com/node/27571?c=federal_agencies_legislative.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

CoA staff has included documents attached herein that show consistent spending by DHS OIG on commemorative awards.¹¹ According to *Federal News Radio* the IG “said he tried to tell the group that the money was not spent on trinkets, but the group did not correct its report.” It is now obvious that IG Edwards did not review FOIA documents produced to Cause of Action and yet made public misrepresentations about what was in those documents.

DHS OIG does not dispute that its own FOIA office, whose productions are reviewed by counsel, determined these awards to be responsive to CoA’s FOIA request. The CoA report correctly identified the \$700,000 spent by DHS OIG as “awards”. The CoA report never identified this spending as based on trinkets, plaques or commemorative items.

DHS OIG acknowledged, as it must, that the error, if any, was with the OIG’s FOIA office, not CoA. DHS OIG claimed, in conversations with Cause of Action staff, that DHS OIG’s FOIA office produced the awards documents based on a promotional items FOIA request and DHS OIG General Counsel reviewed and approved that production. DHS OIG stated, however, that its counsel does not review FOIA productions for accuracy.¹²

It appears that some media outlets may have characterized these funds as having been spent on commemorative items. The CoA report and press release do not characterize them as such. CoA sought to remedy any apparent misinterpretation of the report by revising and updating its press release and submitting to reporters the “Document 2” production for their independent review.¹³

Cause of Action stands by its report. Furthermore, Cause of Action has had numerous conversations with DHS OIG staff and OIG has not found any factual inaccuracies in the CoA report to date. DHS OIG originally agreed that a retraction was not appropriate, but subsequently changed its position based off media coverage of the CoA report. DHS OIG’s Acting Director of Public Affairs, William Hillburg, contended that Cause of Action engaged in “shoddy” journalism. Mr. Hillburg stated that CoA issued an “erroneous report.” Mr. Hillburg also questioned the journalistic integrity of *Fox News* and *Government Executive*. DHS OIG is clearly concerned with the way media outlets are interpreting CoA’s data. CoA agrees the \$700,000 spending was not for commemorative items; but CoA never claimed it was. Instead of expressing its frustration toward CoA and the media, DHS OIG should investigate the way it accounts for internal expenditures and its FOIA office. Mr. Hillburg claimed that “no reasonable person could interpret employee bonuses as promotional items.” CoA never interpreted them as such; DHS OIG’s own FOIA office, however, did just that.

Part of the reason why CoA conducted this investigation is to highlight the lack of internal accountability at federal agencies concerning expenditures. CoA focused on award spending to determine whether federal agencies had the ability to account for what would be assumed to be an insubstantial amount of federal expenditures: promotional items. Yet the fact that DHS OIG’s own FOIA office did not, in the opinion of the OIG, accurately classify the

¹¹ See Exhibits 3, 5.

¹² Telephone conversation between Daniel Epstein and William Hillburg (October 11, 2012).

¹³ See Exhibits 4 (“Document 2”) and 6 (“Press Release”).

records produced to Cause of Action as promotional items signals that CoA's concerns are not only real, but justified.

Cause of Action is ultimately dedicated to informing the public about what their government is up to. OIG staff are charged with investigating waste, fraud, and abuse within their agencies. The Office of Personnel Management (OPM) sets forth Nature of Action Codes (NOAC) that are applied to incentive awards provided to federal employees. The American people might feel that the most appropriate types of awards for audit or investigative staff are those "Agency awards for cost savings disclosures" as interpreted under 5 U.S.C. § 4512. It is not clear from the production that such awards were given by DHS OIG. Instead it appears that the awards mostly consisted of individual (NOAC 879 [5 U.S.C. § 5384] and NOAC 840 awards) and group awards (NOAC 841 [5 USC § 4505a]). Instead of using taxpayer resources to defend itself and attack Cause of Action, perhaps DHS OIG should focus on accountability, transparency, and good government by recognizing that it spent taxdollars on commemorative items and that its FOIA office failed to review the accuracy of its productions.

EXHIBIT 1



April 4, 2012

VIA E-MAIL AND CERTIFIED MAIL

U.S. Department of Homeland Security
Office of the Inspector General
Attn: Katherine Gallo, FOIA Officer
Building 410, Mail Stop - 2600
245 Murray Drive
Washington, DC 20528-0001
FOIA.OIG@OIG.DHS.GOV

RE: Freedom of Information Act Request

Dear Ms. Gallo:

We write on behalf of Cause of Action, a nonprofit, nonpartisan organization that uses public advocacy and legal reform strategies to ensure greater transparency in government and protect taxpayer interests and economic freedom.

It has come to our attention that several federal agencies and Offices of Inspector General (OIG) have spent taxpayer dollars on commemorative coins for their respective agencies. For instance, on April 2, 2012, the OIG of the U.S. General Services Administration found such impermissible awards were given out at the GSA Western Regions Conference:

GSA spent \$6,325 on commemorative coins “rewarding” all conference participants (as well as all regional employees who did not attend the conference) **for their work on Recovery Act projects**, along with velvet boxes to hold the coins. **These did not qualify as permissible awards** because the coins’ design, which appears below, shows that they were intended to be mementos of the [Western Regions Conference].¹

The GSA OIG determined the Western Regions Conference expenditures of \$835,000 in taxpayer dollars were “excessive, wasteful, and in some cases impermissible”² and his report led

¹ OFFICE OF INVESTIGATIONS, OFFICE OF INSPECTOR GENERAL, U.S. GENERAL SERVICES ADMINISTRATION, *Management Deficiency Report: 2010 Western Regions Conference*, (Apr. 2, 2012) at 12, available at <http://www.gsaig.gov/?LinkServID=90537F5B-FBF8-E39E-A4F0D09005742C28&showMeta=0> [emphasis added].

² *Id.* at 1.

to the resignation of GSA Administrator Martha Johnson.³ Because Cause of Action is concerned about the federal expenditure process, we request the following documents pursuant to the Freedom of Information Act (FOIA),⁴ to be produced within twenty (20) business days, from the time period of January 2009, to the present:

1. All documents referring or relating to the acquisition or use, by your agency, of commemorative items, including but not limited to coins, trophies, certificates or any other form of token or award;
2. All documents referring or relating to expenditures for commemorative items per fiscal year, the purpose of such commemorative items, and whether the award was deemed permissible;
3. All documents referring or relating to the recipients of such commemorative items:
 - a. If the recipients were non-federal employees, please disclose all communications between any employee of your agency and that non-federal employee recipient of a commemorative item;
 - b. If the recipients were federal employees, please produce all documents referring or relating to the criteria for which a federal employee qualified for a commemorative item.

Cause of Action Is Entitled to a Complete Waiver of Fees (Public-Interest Purpose).

Cause of Action requests a waiver of both search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). As you know, that statute provides that the requested documents shall be furnished without or at reduced charge 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 the government and is not primarily in the commercial interest of the requester.” Cause of Action, in the present matter, satisfies all of the required elements for a fee waiver.

1) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.

The subject matter of the requested records specifically concerns identifiable “operations or activities of the government” because it relates to the government’s acquisition and use of commemorative items and whether sufficient safeguards exist and are followed to prevent waste, fraud, and abuse of taxpayer dollars. Disclosure of the requested information is therefore likely to contribute significantly to the understanding by the public at large of the operations and activities of the government,⁵ as opposed to the individual understanding of the requester or a narrow segment of interested persons. The documents requested are also not in the public domain, and therefore would be of value to members of the public through disclosure.

³ Press Release, Issa Statement on GSA IG Report on Wasteful Las Vegas Convention Spending (April 2, 2012), available at <http://oversight.house.gov/release/issa-statement-on-gsa-ig-report-on-wasteful-las-vegas-convention-spending/>.

⁴ 5 U.S.C. § 552.

⁵ See, e.g., *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814 n.3 (2d Cir. 1994); *Prison Legal News v. Lappin*, 436 F. Supp. 2d 17, 27 n.5 (D.D.C. 2006).

2) Disclosure of the requested information is not in the commercial interest of Cause of Action.

Cause of Action is a nonprofit organization as defined under Section 501(c)(3) of the Internal Revenue Code. Our organization is committed to protecting the public's right to be aware of the activities of government agencies and to ensuring the lawful and appropriate use of government funds by those agencies. Cause of Action will make no profit from the disclosure of this information and will use it to further the knowledge-interests of the general public. Even if disclosure of information creates a profit motive, that is not dispositive for the commercial interest test; media or scholars could have a profit motive, as long as the dissemination of the information is in their professional capacity and would further the public interest.⁶

3) Cause of Action has an ability to disseminate the requested information to the public and specifically intends to do so.

Cause of Action uses a combination of research, litigation, advocacy, and regularly disseminated publications to advance its mission. Our staff has a combined 20 years of expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through Cause of Action's regularly published online newsletter, memoranda, reports, or press releases. In addition, Cause of Action will disseminate any relevant documents it acquires from this request to the public through its website, www.causeofaction.org, which also includes links to thousands of pages of documents Cause of Action acquired through its previous FOIA requests, as well as documents related to Cause of Action's litigation and agency complaints. Finally, Cause of Action intends to compile a report on the use of commemorative items by government agencies at the conclusion of the agency's production of documents which may be published on www.causeofaction.org, distributed to the news media, and sent to interested persons through our regular periodical, including "Agency Check." An ability to show the presence of a website with occasional, consistent traffic is enough to show that a requester has an ability to disseminate information.⁷

The release of information garnered through this request is not in Cause of Action's commercial interest pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Because disclosure of this information is in the public interest and will contribute significantly to public understanding of the operations or activities of the government, any fees should be waived pursuant to both FOIA and agency regulations.

Cause of Action Is Entitled to News Media Requester Category Status.

⁶ See *Campbell v. Department of Justice*, 164 F.3d 20, 38 (D.C. Cir. 1998). Moreover, as a tax-exempt entity, any profit is merely incidental to the achievement of Cause of Action's tax-exempt purpose of educating the public about the federal procurement process.

⁷ *Fed. CURE v. Lappin*, 602 F. Supp. 2d 197 (D.D.C. 2009).

Cause of Action also asks that it not be charged search or review fees for this request because it qualifies as a “representative of the news media, or news media requester,” under 5 U.S.C. § 552(a)(4)(A)(ii)(II).⁸ In *National Security Archive v. U.S. Dep’t of Defense*,⁹ the Court of Appeals for the District of Columbia Circuit noted that FOIA’s legislative history demonstrates that “it is critical that the phrase ‘representative of the news media’ be broadly interpreted if the act is to work as expected In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a ‘representative of the news media.’”¹⁰

Cause of Action is organized and operated, *inter alia*, to publish and broadcast news, i.e., information that is about current events or that would be of current interest to the public. Cause of Action routinely and systematically disseminates information to the public in several ways. Cause of Action maintains a frequently visited website, www.causeofaction.org. Additionally, since September 2011, Cause of Action has published an e-mail newsletter. This newsletter provides subscribers with regular updates regarding Cause of Action’s activities and information the organization has received from government entities. Cause of Action also disseminates information via Twitter and Facebook. Cause of Action also produces a newsletter titled “Agency Check,” which informs interested persons about actions of federal agencies, and another periodical, “Cause of Action News.”¹¹

Cause of Action gleans the information it regularly publishes in its newsletters from a wide variety of sources, including FOIA requests, government agencies, universities, law reviews, and even other news sources. Cause of Action researches issues on government transparency and accountability, the use of taxpayer funds, and social and economic freedoms then regularly reports on this information, analyzes relevant data, evaluates the newsworthiness of the material, and puts the facts and issues into context. Cause of Action uses technology—including but not limited to the Internet, Twitter, and Facebook—to publish and distribute news about current events and issues that are of current interest to the general public. All of these activities are hallmarks of publishing, news, and journalism. Based on these extensive publication activities,¹² Cause of Action qualifies for a fee waiver as a “representative of the news media, or news media requester,” under FOIA and agency regulations.

⁸ Other agencies of the federal government have granted Cause of Action “representative of the news media” category status. *See, e.g.*, FOIA Request HQ-2012-00752-F (Department of Energy), news media status granted on Feb. 15, 2012; FOIA Request No. 12-00455-F (Department of Education), news media status granted on Jan. 20, 2012; FOIA Request 12-267 (Federal Emergency Management Agency), news media status granted on Feb. 9, 2012; FOIA Request CRRIF 2012-00077 (Department of Commerce), interim rolling production of documents on Mar. 1, 2012 without charge. As the D.C. federal circuit court noted in *Oglesby v. United States Dep’t of Army*, 920 F.2d 57 (D.C. Cir. 1990), agencies should grant news media requestor status when other agencies have done so because of “the need for uniformity among the agencies in their application of FOIA.” *Id.* at 66.

⁹ 880 F.2d 1381, 1386 (D.C. Cir. 1989).

¹⁰ 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis added), cited in *id.*

¹¹ CAUSE OF ACTION WEBSITE, Newsletters, available at <http://causeofaction.org/newsletters/>.

¹² *See, e.g.*, Matthew Boyle, *Report: ACORN-affiliated group gets \$300,000 more in taxpayer money*, THE DAILY CALLER, (Sept. 16, 2011), available at <http://dailycaller.com/2011/09/16/report-acorn-affiliated-group-gets-300000-more-in-taxpayer-money/>; Matthew Boyle, *Long-time ACORN affiliate secures \$350,000 in new taxpayer funding*, THE DAILY CALLER, (Sept. 19, 2011), available at <http://dailycaller.com/2011/09/19/long-time-acorn-affiliate-secures-350000-in-new-taxpayer-funding/>; Paul Streckfus, *Accountability Group Seeks IRS Investigation of ACORN*

Cause of Action's activities clearly fall within the statutory definition of this term. 5 U.S.C. § 552(a)(4)(A)(ii)(III) defines "representative[s] of the news media" broadly to include organizations that disseminate news through electronic communications, including "*publishers of periodicals . . . who make their products available for purchase by or subscription by or free distribution to the general public.*"¹³ Moreover, the FOIA statute itself, as amended in 2007, explicitly defines "representative of the news media"—a term that had previously been undefined in the statute—to specifically include organizations, such as Cause of Action, that regularly publish and disseminate online periodicals, e.g., newsletters.¹⁴ The statutory definition

Affiliates, EO TAX JOURNAL, Ed. 2011-173, (Oct. 24, 2011); Bobby McMahon, *EPA Stalls Utility MACT Until December, Fights Industry Bid For Year Delay*, INSIDEEPA, (Oct. 24th, 2011), available at <http://insideepa.com/2011/10/21/2379934/EPA-Daily-News/Daily-News/epa-stalls-utility-mact-until-december-fights-industry-bid-for-year-delay/menu-id-95.html>; Paul Streckfus, *More Commentary on NCPL's Annual Conference*, EO TAX JOURNAL, Ed. 2011-185, (Nov. 9, 2011); Patrick Reis and Darren Goode, *Senators hedge bets ahead of CSAPR vote - Second anti-reg bill to get vote - Perry's debate gaffe - Acrimony hits new heights in Solyndra spat*, POLITICO, (Nov. 10, 2011), available at <http://www.politico.com/morningenergy/1111/morningenergy374.html>; Paul Streckfus, *More Commentary on NCPL's Annual Conference*, EO TAX JOURNAL, Ed. 2011-187, (Nov. 15, 2011); Frank Maisano, *Nov 14 Energy Update: Chu'd Out in Congress*, ENERGYNOW!, (Nov. 15, 2011), available at <http://www.energynow.com/energypanel/2011/11/15/nov-14-energy-update-chud-out-congress>; Conn Carroll, *Labor board broke federal law on Boeing suit*, WASHINGTON EXAMINER, (Nov. 27, 2011), available at <http://campaign2012.washingtonexaminer.com/article/labor-board-broke-federal-law-boeing-suit>; Matthew Vadum, *Obama uses taxpayer cash to back ACORN Name changes used to dodge the law*, WASHINGTON TIMES, (Nov. 28, 2011), available at <http://www.washingtontimes.com/news/2011/nov/28/obama-uses-taxpayer-cash-to-back-acorn-name-change/>; Matthew Boyle, *Obama administration, GAO appear to have ignored group's ACORN affiliation to award \$700K*, THE DAILY CALLER, (Nov. 28, 2011), available at <http://dailycaller.com/2011/11/28/obama-administration-gao-appear-to-have-ignored-groups-acorn-affiliation-to-award-700k/>; WORLDNETDAILY, *See which radicals got more taxpayer dollars: Support maintained despite organization's accounting 'problems,'* (Nov. 29, 2011), available at <http://www.wnd.com/index.php?fa=PAGE.view&pageId=372685>; Perry Chiaramonte, *ACORN Misused Federal Grant Funds, Report Says*, FOX NEWS, (Nov. 30, 2011), available at <http://www.foxnews.com/politics/2011/11/30/acorn-misused-federal-grant-funds-report-says/>; Marsha Shuler, *Group challenges La. contribution limit*, THE ADVOCATE, (Nov. 30, 2011), available at <http://theadvocate.com/news/1437637-123/group-challenges-la.-contribution-limit>; Margaret Menge, *Justice Audit Alleges ACORN Spin-Off in New York Misused Money*, NEWSMAX, (Dec. 1, 2011), available at <http://www.newsmax.com/US/ACORN-justice-audit-funds/2011/12/01/id/419672>; PITTSBURGH TRIBUNE-REVIEW, *Acorn lives: Meet AHCOA*, (Dec. 5, 2011), available at http://www.pittsburghlive.com/x/pittsburghtrib/opinion/s_770135.html; Tom Fitton, *Obama Administration Violating ACORN Funding Ban According to New Audit*, BIG GOVERNMENT, (Dec. 5, 2011), available at <http://biggovernment.com/tffitton/2011/12/05/obama-administration-violating-acorn-funding-ban-according-to-new-audit/>; NATIONAL RIGHT TO WORK COMMITTEE, *NLRB: Law Breakers?*, (Dec. 10, 2011), available at <http://www.nrtwc.org/nlr-law-breakers/>.

¹³ 5 U.S.C. § 552(a)(4)(A)(ii)(III) (emphasis added).

¹⁴ The FOIA statute, as amended in 2007, defines "representative of the news media" as follows:

[T]he term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by or subscription by or free distribution to the general public. These examples

unequivocally commands that organizations that electronically disseminate information and publications via “alternative media *shall* be considered to be news-media entities.”¹⁵ As the plain language of the statute makes abundantly clear, an organization that regularly disseminates news via an online newsletter or periodical, such as Cause of Action, is a “representative of the news media” under FOIA.

In *Electronic Privacy Information Center v. Dep’t of Defense*, the court broadly construed a Department of Defense regulation defining “representative of the news media” to include a 501(c)(3) that, like Cause of Action, maintains a frequently visited website and regularly publishes an e-mail newsletter.¹⁶ Under well-established precedent, then, a 501(c)(3) requester that regularly publishes online newsletters, such as Cause of Action, is entitled to a fee waiver as a “representative of the news media,” where the agency’s own regulations explicitly provide that “publishers of periodicals” qualify as representatives of the news media.¹⁷

The information requested here concerns current events and will undoubtedly be of current interest to a large segment of the general public. Cause of Action will ultimately disseminate the information it is statutorily entitled to, *inter alia*, through its regularly published online newsletter. Additionally, Cause of Action will take the information that is disclosed, using its editorial skills and judgment, to create an article on the use of commemorative items by government agencies that will be in the form of a report published on our website, distributed to other media sources, and distributed to interested persons through our newsletters.

The plain language of 5 U.S.C. § 552(a)(4)(A)(ii)(III), controlling precedent, and the agency’s regulations unequivocally require the conclusion that Cause of Action is a representative of the news media.

Production of Documents and Contact Information

We 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

are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), *such alternative media shall be considered to be news-media entities*.

5 U.S.C. § 552(a)(ii)(III) (emphasis added).

¹⁵ *Id.* (emphasis added). See generally *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661-662 (2007) (noting the well-established proposition that, as used in statutes, the word “shall” is generally imperative or mandatory).

¹⁶ 241 F. Supp. 2d 5, 12-15 (D.D.C. 2003). The court pointedly noted that “a ‘periodical,’ unlike a daily newspaper, has been defined simply as ‘a publication issued at regular intervals of more than one day.’” *Id.* at 14 n.4 (quoting American Heritage Dictionary, Second College Edition, at p. 923 (2000)).

¹⁷ See *id.* at 12 (agency’s “own regulation establishes that...[an organization] is a representative of the news media” because the organization “publishes a periodical..., which is a biweekly electronic newsletter” (citations omitted)).

presumption of disclosure should be applied to all decisions involving FOIA.¹⁸

On the same day, President Obama spoke on FOIA to incoming members of the Cabinet and staff of the White House:

The old rules said that if there was a defensible argument for not disclosing something to the American people, then it should not be disclosed. That era is now over. Starting today, every agency and department should know that this administration stands on the side not of those who seek to withhold information but those who seek to make it known. To be sure, issues like personal privacy and national security must be treated with the care they demand. But the mere fact that you have the legal power to keep something secret does not mean you should always use it. The Freedom of Information Act is perhaps the most powerful instrument we have for making our government honest and transparent, and of holding it accountable. And I expect members of my administration not simply to live up to the letter but also the spirit of this law.¹⁹

If it is your position that any portion of the requested records is exempt from disclosure, Cause of Action requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*.²⁰ As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient identifying information “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”²¹ Moreover, the *Vaughn* index must “describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information.”²² Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”²³

In the event that some portions of the requested records are properly exempt from disclosure, please redact such portions and produce all remaining reasonably segregable non-exempt portions of the requested records.²⁴ If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document

¹⁸ PRESIDENT BARACK OBAMA, *Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act*, Jan. 21, 2009, available at <http://www.whitehouse.gov/the-press-office/freedom-information-act>.

¹⁹ PRESIDENT BARACK OBAMA, *Remarks by the President in Welcoming Senior Staff and Cabinet Secretaries to the White House*, Jan. 21, 2009, available at <http://oversight.house.gov/hearing/foia-in-the-21st-century-using-technology-to-improve-transparency-in-government/>.

²⁰ 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1972).

²¹ *Founding Church of Scientology v. Bell*, 603 F.2d 945,949 (D.C. Cir. 1979).

²² *King v. U.S. Dep't of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added).

²³ *Id.* at 224 (citing *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

²⁴ See 5 U.S.C. § 552(b).

Ms. Katherine Gallo

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as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed throughout the document.²⁵ Claims of non-segregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

In an effort to facilitate record production within the statutory time limit, Cause of Action prefers to accept documents in electronic format (e.g., e-mail, .pdfs). When necessary, Cause of Action will accept the "rolling production" of documents, but requests that you provide prompt notification of any intent to produce documents on a rolling basis.

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 [REDACTED]

[REDACTED] or [REDACTED] ([REDACTED]) at [REDACTED]

[REDACTED] We look forward to receiving the requested documents and a waiver of search, review, and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

[REDACTED]

[REDACTED]

Encl. Responding to Document Requests, Definitions

²⁵ See *Mead Data Central*, 566 F.2d at 261.

Responding to Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to Cause of Action.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by, any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. Cause of Action's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. When you produce documents, you should identify the paragraph in Cause of Action's request to which the documents respond.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
6. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with Cause of Action Foundation staff to determine the appropriate format in which to produce the information.
7. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
8. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
9. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

10. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents that would be responsive as if the date or other descriptive detail were correct.
11. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009, to the present.
12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
13. All documents shall be Bates-stamped sequentially and produced sequentially.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmation, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural numbers, and vice versa. The masculine includes the feminine and neutral genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

EXHIBIT 2



JUL 31 2012

[REDACTED]

Subject: Freedom of Information Act Request No. 2012-075 –Interim Response

Dear [REDACTED]

This is an interim response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated April 4, 2012, and seeking records pertaining to commemorative items (copy attached for reference). Your request was received in this office on April 5, 2012.

Pursuant to your telephone conversation of April 16, 2012, with my staff member Ms. Nikki Gramian, you agreed to receive a list, if one available, or an Excel spreadsheet showing the following information: date, name of awardees, type of award, purpose, and cost of item. Additionally, regarding your request for “on the spot cash awards,” you agreed to obtain a list of all cash awards OIG employees and other individuals outside of OIG received from January 2009 to present (copy of the email attached for reference).

The DHS-OIG conducts independent investigations, audits, inspections, and special reviews of DHS personnel, programs, and operations to detect and deter waste, fraud, and abuse, and to promote integrity, economy, and efficiency within DHS. In response to your request, a search of the DHS-OIG’s Office of Audits, Inspections, IT Audits, Emergency Management Oversight (EMO), and Investigations was conducted. Our search within EMO and IT Audits resulted in no records responsive to the FOIA request.

However, our search within the Office of Audits, Management, and Investigations resulted in records responsive to your request. Our search within the Office of Audits and Management produced the attached Excel spreadsheets responsive to the FOIA request. Please note that OIG’s Office of Management also informed our office that OIG does not give cash awards to non-OIG employees, such as contractors or those from other government agencies. If they receive an award, they are presented with Honor awards, which are non-monetary.

Finally, as stated above, this is an interim response because we are continuing to process the records we received from the Office of Investigations. Once these responsive records are processed, we will provide you with the releasable portions.

We have reviewed the responsive records under the FOIA to determine whether they may be accessed under the FOIA's provisions. Based on that review, this office is providing the following:

- _____ page(s) are being released in full (RIF);
- 27 page(s) are being released in part (RIP);
- _____ page(s) are withheld in full (WIF);
- _____ page(s) are duplicate copies of material already processed;
- _____ page(s) are non-responsive to your request and therefore withheld in full;
- _____ page(s) were referred to another entity.

The exemptions cited for withholding records or portions of records are marked below.

Freedom of Information Act, 5 U.S.C. § 552			Privacy Act, 5 U.S.C. § 552a
<input type="checkbox"/> 552(b)(1)	<input type="checkbox"/> 552(b)(4)	<input type="checkbox"/> 552(b)(7)(B)	<input type="checkbox"/> 552a(j)(2)
<input type="checkbox"/> 552(b)(2)	<input type="checkbox"/> 552(b)(5)	<input type="checkbox"/> 552(b)(7)(C)	<input type="checkbox"/> 552a(k)(2)
<input type="checkbox"/> 552(b)(3)	<input checked="" type="checkbox"/> 552(b)(6)	<input type="checkbox"/> 552(b)(7)(D)	<input type="checkbox"/> 552a(k)(5)
	<input type="checkbox"/> 552(b)(7)(A)	<input type="checkbox"/> 552(b)(7)(E)	<input type="checkbox"/> Other:

OIG redacted from the enclosed documents, names and identifying information of third parties to protect the identities of these individuals. Absent a Privacy Act waiver, the release of such information concerning the third parties named in these records would result in an unwarranted invasion of personal privacy in violation of the PA. That information is also protected from disclosure pursuant to Exemption 6 of the FOIA.

Exemption 6, 5 U.S.C. § 552(b)(6)

Exemption 6 allows withholding of "personnel and medical files and *similar files* the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." See 5 U.S.C. § 552(b)(6)(emphasis added). DHS-OIG is invoking Exemption 6 to protect the names and initials of lower level employees, non-agency employees, and private citizens.

Appeal

Because processing is not yet complete for this request, we ask that you defer any appeals until we have completed our production of records. You do, however, have the right to appeal this response. Your appeal must be in writing and received within 60 days of the date of this response. Please address any appeal to:

FOIA/PA Appeals Unit
DHS/Inspector General
STOP 2600
245 Murray Drive, SW, Building 410
Washington, DC 20528

Both the envelope and letter of appeal must be clearly marked, "Freedom of Information Act/Privacy Act Appeal." Your appeal letter must also clearly identify the DHS-OIG's response. Additional information on submitting an appeal is set forth in the DHS regulations at 6 C.F.R. § 5.9. DHS-OIG will provide you with another response once we complete processing of the remaining responsive pages. If you have any questions about this response please contact Aneet Thind, FOIA/PA Disclosure Specialist, at 202-254-4373.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you wish to contact OGIS, you may email that entity at ogis@nara.gov or call 877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine R. Gallo". The signature is stylized and cursive.

Katherine R. Gallo

Assistant Counsel to the Inspector General

Enclosure(s)

Copy of the
FOIA Request



April 4, 2012

VIA E-MAIL AND CERTIFIED MAIL

U.S. Department of Homeland Security
Office of the Inspector General
Attn: Katherine Gallo, FOIA Officer
Building 410, Mail Stop - 2600
245 Murray Drive
Washington, DC 20528-0001
FOIA.OIG@OIG.DHS.GOV

RE: Freedom of Information Act Request

Dear Ms. Gallo:

We write on behalf of Cause of Action, a nonprofit, nonpartisan organization that uses public advocacy and legal reform strategies to ensure greater transparency in government and protect taxpayer interests and economic freedom.

It has come to our attention that several federal agencies and Offices of Inspector General (OIG) have spent taxpayer dollars on commemorative coins for their respective agencies. For instance, on April 2, 2012, the OIG of the U.S. General Services Administration found such impermissible awards were given out at the GSA Western Regions Conference:

GSA spent \$6,325 on commemorative coins “rewarding” all conference participants (as well as all regional employees who did not attend the conference) **for their work on Recovery Act projects**, along with velvet boxes to hold the coins. **These did not qualify as permissible awards** because the coins’ design, which appears below, shows that they were intended to be mementos of the [Western Regions Conference].¹

The GSA OIG determined the Western Regions Conference expenditures of \$835,000 in taxpayer dollars were “excessive, wasteful, and in some cases impermissible”² and his report led

¹ OFFICE OF INVESTIGATIONS, OFFICE OF INSPECTOR GENERAL, U.S. GENERAL SERVICES ADMINISTRATION, *Management Deficiency Report: 2010 Western Regions Conference*, (Apr. 2, 2012) at 12, available at <http://www.gsaig.gov/?LinkServID=90537F5B-FBF8-E39E-A4F0D09005742C28&showMeta=0> [emphasis added].

² *Id.* at 1.

to the resignation of GSA Administrator Martha Johnson.³ Because Cause of Action is concerned about the federal expenditure process, we request the following documents pursuant to the Freedom of Information Act (FOIA),⁴ to be produced within twenty (20) business days, from the time period of January 2009, to the present:

1. All documents referring or relating to the acquisition or use, by your agency, of commemorative items, including but not limited to coins, trophies, certificates or any other form of token or award;
2. All documents referring or relating to expenditures for commemorative items per fiscal year, the purpose of such commemorative items, and whether the award was deemed permissible;
3. All documents referring or relating to the recipients of such commemorative items:
 - a. If the recipients were non-federal employees, please disclose all communications between any employee of your agency and that non-federal employee recipient of a commemorative item;
 - b. If the recipients were federal employees, please produce all documents referring or relating to the criteria for which a federal employee qualified for a commemorative item.

Cause of Action Is Entitled to a Complete Waiver of Fees (Public-Interest Purpose).

Cause of Action requests a waiver of both search and review fees pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). As you know, that statute provides that the requested documents shall be furnished without or at reduced charge 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 the government and is not primarily in the commercial interest of the requester.” Cause of Action, in the present matter, satisfies all of the required elements for a fee waiver.

1) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.

The subject matter of the requested records specifically concerns identifiable “operations or activities of the government” because it relates to the government’s acquisition and use of commemorative items and whether sufficient safeguards exist and are followed to prevent waste, fraud, and abuse of taxpayer dollars. Disclosure of the requested information is therefore likely to contribute significantly to the understanding by the public at large of the operations and activities of the government,⁵ as opposed to the individual understanding of the requester or a narrow segment of interested persons. The documents requested are also not in the public domain, and therefore would be of value to members of the public through disclosure.

³ Press Release, Issa Statement on GSA IG Report on Wasteful Las Vegas Convention Spending (April 2, 2012), available at <http://oversight.house.gov/release/issa-statement-on-gsa-ig-report-on-wasteful-las-vegas-convention-spending/>.

⁴ 5 U.S.C. § 552.

⁵ See, e.g., *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814 n.3 (2d Cir. 1994); *Prison Legal News v. Lappin*, 436 F. Supp. 2d 17, 27 n.5 (D.D.C. 2006).

2) Disclosure of the requested information is not in the commercial interest of Cause of Action.

Cause of Action is a nonprofit organization as defined under Section 501(c)(3) of the Internal Revenue Code. Our organization is committed to protecting the public's right to be aware of the activities of government agencies and to ensuring the lawful and appropriate use of government funds by those agencies. Cause of Action will make no profit from the disclosure of this information and will use it to further the knowledge-interests of the general public. Even if disclosure of information creates a profit motive, that is not dispositive for the commercial interest test; media or scholars could have a profit motive, as long as the dissemination of the information is in their professional capacity and would further the public interest.⁶

3) Cause of Action has an ability to disseminate the requested information to the public and specifically intends to do so.

Cause of Action uses a combination of research, litigation, advocacy, and regularly disseminated publications to advance its mission. Our staff has a combined 20 years of expertise in government oversight, investigative reporting, and federal public interest litigation. These professionals will analyze the information responsive to this request, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public, whether through Cause of Action's regularly published online newsletter, memoranda, reports, or press releases. In addition, Cause of Action will disseminate any relevant documents it acquires from this request to the public through its website, www.causeofaction.org, which also includes links to thousands of pages of documents Cause of Action acquired through its previous FOIA requests, as well as documents related to Cause of Action's litigation and agency complaints. Finally, Cause of Action intends to compile a report on the use of commemorative items by government agencies at the conclusion of the agency's production of documents which may be published on www.causeofaction.org, distributed to the news media, and sent to interested persons through our regular periodical, including "Agency Check." An ability to show the presence of a website with occasional, consistent traffic is enough to show that a requester has an ability to disseminate information.⁷

The release of information garnered through this request is not in Cause of Action's commercial interest pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Because disclosure of this information is in the public interest and will contribute significantly to public understanding of the operations or activities of the government, any fees should be waived pursuant to both FOIA and agency regulations.

Cause of Action Is Entitled to News Media Requester Category Status.

⁶ See *Campbell v. Department of Justice*, 164 F.3d 20, 38 (D.C. Cir. 1998). Moreover, as a tax-exempt entity, any profit is merely incidental to the achievement of Cause of Action's tax-exempt purpose of educating the public about the federal procurement process.

⁷ *Fed. CURE v. Lappin*, 602 F. Supp. 2d 197 (D.D.C. 2009).

Cause of Action also asks that it not be charged search or review fees for this request because it qualifies as a “representative of the news media, or news media requester,” under 5 U.S.C. § 552(a)(4)(A)(ii)(II).⁸ In *National Security Archive v. U.S. Dep’t of Defense*,⁹ the Court of Appeals for the District of Columbia Circuit noted that FOIA’s legislative history demonstrates that “it is critical that the phrase ‘representative of the news media’ be broadly interpreted if the act is to work as expected In fact, any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a ‘representative of the news media.’”¹⁰

Cause of Action is organized and operated, *inter alia*, to publish and broadcast news, i.e., information that is about current events or that would be of current interest to the public. Cause of Action routinely and systematically disseminates information to the public in several ways. Cause of Action maintains a frequently visited website, www.causeofaction.org. Additionally, since September 2011, Cause of Action has published an e-mail newsletter. This newsletter provides subscribers with regular updates regarding Cause of Action’s activities and information the organization has received from government entities. Cause of Action also disseminates information via Twitter and Facebook. Cause of Action also produces a newsletter titled “Agency Check,” which informs interested persons about actions of federal agencies, and another periodical, “Cause of Action News.”¹¹

Cause of Action gleans the information it regularly publishes in its newsletters from a wide variety of sources, including FOIA requests, government agencies, universities, law reviews, and even other news sources. Cause of Action researches issues on government transparency and accountability, the use of taxpayer funds, and social and economic freedoms then regularly reports on this information, analyzes relevant data, evaluates the newsworthiness of the material, and puts the facts and issues into context. Cause of Action uses technology—including but not limited to the Internet, Twitter, and Facebook—to publish and distribute news about current events and issues that are of current interest to the general public. All of these activities are hallmarks of publishing, news, and journalism. Based on these extensive publication activities,¹² Cause of Action qualifies for a fee waiver as a “representative of the news media, or news media requester,” under FOIA and agency regulations.

⁸ Other agencies of the federal government have granted Cause of Action “representative of the news media” category status. See, e.g., FOIA Request HQ-2012-00752-F (Department of Energy), news media status granted on Feb. 15, 2012; FOIA Request No. 12-00455-F (Department of Education), news media status granted on Jan. 20, 2012; FOIA Request 12-267 (Federal Emergency Management Agency), news media status granted on Feb. 9, 2012; FOIA Request CRRIF 2012-00077 (Department of Commerce), interim rolling production of documents on Mar. 1, 2012 without charge. As the D.C. federal circuit court noted in *Oglesby v. United States Dep’t of Army*, 920 F.2d 57 (D.C. Cir. 1990), agencies should grant news media requestor status when other agencies have done so because of “the need for uniformity among the agencies in their application of FOIA.” *Id.* at 66.

⁹ 880 F.2d 1381, 1386 (D.C. Cir. 1989).

¹⁰ 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis added), cited in *id.*

¹¹ CAUSE OF ACTION WEBSITE, Newsletters, available at <http://causeofaction.org/newsletters/>.

¹² See, e.g., Matthew Boyle, Report: ACORN-affiliated group gets \$300,000 more in taxpayer money, THE DAILY CALLER, (Sept. 16, 2011), available at <http://dailycaller.com/2011/09/16/report-acorn-affiliated-group-gets-300000-more-in-taxpayer-money/>; Matthew Boyle, Long-time ACORN affiliate secures \$350,000 in new taxpayer funding, THE DAILY CALLER, (Sept. 19, 2011), available at <http://dailycaller.com/2011/09/19/long-time-acorn-affiliate-secures-350000-in-new-taxpayer-funding/>; Paul Streckfus, Accountability Group Seeks IRS Investigation of ACORN

Cause of Action's activities clearly fall within the statutory definition of this term. 5 U.S.C. § 552(a)(4)(A)(ii)(III) defines "representative[s] of the news media" broadly to include organizations that disseminate news through electronic communications, including "publishers of periodicals . . . who make their products available for purchase by or subscription by or free distribution to the general public."¹³ Moreover, the FOIA statute itself, as amended in 2007, explicitly defines "representative of the news media"—a term that had previously been undefined in the statute—to specifically include organizations, such as Cause of Action, that regularly publish and disseminate online periodicals, e.g., newsletters.¹⁴ The statutory definition

Affiliates, EO TAX JOURNAL, Ed. 2011-173, (Oct. 24, 2011); Bobby McMahon, *EPA Stalls Utility MACT Until December, Fights Industry Bid For Year Delay*, INSIDE EPA, (Oct. 24th, 2011), available at <http://insideepa.com/2011/10/24/12379934/EPA-Daily-News/Daily-News/epa-stalls-utility-mact-until-december-fights-industry-bid-for-year-delay/menu-id-95.html>; Paul Streckfus, *More Commentary on NCPL's Annual Conference*, EO TAX JOURNAL, Ed. 2011-185, (Nov. 9, 2011); Patrick Reis and Darren Goode, *Senators hedge bets ahead of CSAPR vote - Second anti-reg bill to get vote - Perry's debate gaffe - Acrimony hits new heights in Solyndra spat*, POLITICO, (Nov. 10, 2011), available at <http://www.politico.com/morningenergy/1111/morningenergy374.html>; Paul Streckfus, *More Commentary on NCPL's Annual Conference*, EO TAX JOURNAL, Ed. 2011-187, (Nov. 15, 2011); Frank Maisano, *Nov 14 Energy Update: Chu'd Out in Congress*, ENERGYNOW!, (Nov. 15, 2011), available at <http://www.energynow.com/energypanel/2011/11/15/nov-14-energy-update-chud-out-congress>; Conn Carroll, *Labor board broke federal law on Boeing suit*, WASHINGTON EXAMINER, (Nov. 27, 2011), available at <http://campaign2012.washingtonexaminer.com/article/labor-board-broke-federal-law-boeing-suit>; Matthew Vadum, *Obama uses taxpayer cash to back ACORN Name changes used to dodge the law*, WASHINGTON TIMES, (Nov. 28, 2011), available at <http://www.washingtontimes.com/news/2011/nov/28/obama-uses-taxpayer-cash-to-back-acorn-name-change/>; Matthew Boyle, *Obama administration, GAO appear to have ignored group's ACORN affiliation to award \$700K*, THE DAILY CALLER, (Nov. 28, 2011), available at <http://dailycaller.com/2011/11/28/obama-administration-gao-appear-to-have-ignored-groups-acorn-affiliation-to-award-700k/>; WORLDNETDAILY, *See which radicals got more taxpayer dollars: Support maintained despite organization's accounting 'problems'*, (Nov. 29, 2011), available at <http://www.wnd.com/index.php?fa=PAGE.view&pageId=372685>; Perry Chiaramonte, *ACORN Misused Federal Grant Funds, Report Says*, FOX NEWS, (Nov. 30, 2011), available at <http://www.foxnews.com/politics/2011/11/30/acorn-misused-federal-grant-funds-report-says/>; Marsha Shuler, *Group challenges La. contribution limit*, THE ADVOCATE, (Nov. 30, 2011), available at <http://theadvocate.com/news/1437637-123/group-challenges-la.-contribution-limit>; Margaret Menge, *Justice Audit Alleges ACORN Spin-Off in New York Misused Money*, NEWSMAX, (Dec. 1, 2011), available at <http://www.newsmax.com/US/ACORN-justice-audit-funds/2011/12/01/id/419672>; PITTSBURGH TRIBUNE-REVIEW, *Acorn lives: Meet AHCOA*, (Dec. 5, 2011), available at http://www.pittsburghlive.com/x/pittsburghtrib/opinion/s_770135.html; Tom Fitton, *Obama Administration Violating ACORN Funding Ban According to New Audit*, BIG GOVERNMENT, (Dec. 5, 2011), available at <http://biggovernment.com/tfitton/2011/12/05/obama-administration-violating-acorn-funding-ban-according-to-new-audit/>; NATIONAL RIGHT TO WORK COMMITTEE, *NLRB: Law Breakers?*, (Dec. 10, 2011), available at <http://www.nrtwc.org/nlr-law-breakers/>.

¹³ 5 U.S.C. § 552(a)(4)(A)(ii)(III) (emphasis added).

¹⁴ The FOIA statute, as amended in 2007, defines "representative of the news media" as follows:

[T]he term "a representative of the news media" means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term "news" means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of "news") who make their products available for purchase by or subscription by or free distribution to the general public. These examples

unequivocally commands that organizations that electronically disseminate information and publications via “alternative media *shall* be considered to be news-media entities.”¹⁵ As the plain language of the statute makes abundantly clear, an organization that regularly disseminates news via an online newsletter or periodical, such as Cause of Action, is a “representative of the news media” under FOIA.

In *Electronic Privacy Information Center v. Dep’t of Defense*, the court broadly construed a Department of Defense regulation defining “representative of the news media” to include a 501(c)(3) that, like Cause of Action, maintains a frequently visited website and regularly publishes an e-mail newsletter.¹⁶ Under well-established precedent, then, a 501(c)(3) requester that regularly publishes online newsletters, such as Cause of Action, is entitled to a fee waiver as a “representative of the news media,” where the agency’s own regulations explicitly provide that “publishers of periodicals” qualify as representatives of the news media.¹⁷

The information requested here concerns current events and will undoubtedly be of current interest to a large segment of the general public. Cause of Action will ultimately disseminate the information it is statutorily entitled to, *inter alia*, through its regularly published online newsletter. Additionally, Cause of Action will take the information that is disclosed, using its editorial skills and judgment, to create an article on the use of commemorative items by government agencies that will be in the form of a report published on our website, distributed to other media sources, and distributed to interested persons through our newsletters.

The plain language of 5 U.S.C. § 552(a)(4)(A)(ii)(III), controlling precedent, and the agency’s regulations unequivocally require the conclusion that Cause of Action is a representative of the news media.

Production of Documents and Contact Information

We 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

are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), *such alternative media shall be considered to be news-media entities*.

5 U.S.C. § 552(a)(ii)(III) (emphasis added).

¹⁵ *Id.* (emphasis added). See generally *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661-662 (2007) (noting the well-established proposition that, as used in statutes, the word “shall” is generally imperative or mandatory).

¹⁶ 241 F. Supp. 2d. 5, 12-15 (D.D.C. 2003). The court pointedly noted that “a ‘periodical,’ unlike a daily newspaper, has been defined simply as ‘a publication issued at regular intervals of more than one day.’” *Id.* at 14 n.4 (quoting American Heritage Dictionary, Second College Edition, at p. 923 (2000)).

¹⁷ See *id.* at 12 (agency’s “own regulation establishes that...[an organization] is a representative of the news media” because the organization “publishes a periodical..., which is a biweekly electronic newsletter” (citations omitted)).

presumption of disclosure should be applied to all decisions involving FOIA.¹⁸

On the same day, President Obama spoke on FOIA to incoming members of the Cabinet and staff of the White House:

The old rules said that if there was a defensible argument for not disclosing something to the American people, then it should not be disclosed. That era is now over. Starting today, every agency and department should know that this administration stands on the side not of those who seek to withhold information but those who seek to make it known. To be sure, issues like personal privacy and national security must be treated with the care they demand. But the mere fact that you have the legal power to keep something secret does not mean you should always use it. The Freedom of Information Act is perhaps the most powerful instrument we have for making our government honest and transparent, and of holding it accountable. And I expect members of my administration not simply to live up to the letter but also the spirit of this law.¹⁹

If it is your position that any portion of the requested records is exempt from disclosure, Cause of Action requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*.²⁰ As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient identifying information "to permit a reasoned judgment as to whether the material is actually exempt under FOIA."²¹ Moreover, the *Vaughn* index must "describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of supplying the sought-after information."²² Further, "the withholding agency must supply 'a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.'"²³

In the event that some portions of the requested records are properly exempt from disclosure, please redact such portions and produce all remaining reasonably segregable non-exempt portions of the requested records.²⁴ If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document

¹⁸ PRESIDENT BARACK OBAMA, *Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act*, Jan. 21, 2009, available at <http://www.whitehouse.gov/the-press-office/freedom-information-act>.

¹⁹ PRESIDENT BARACK OBAMA, *Remarks by the President in Welcoming Senior Staff and Cabinet Secretaries to the White House*, Jan. 21, 2009, available at <http://oversight.house.gov/hearing/foia-in-the-21st-century-using-technology-to-improve-transparency-in-government/>.

²⁰ 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1972).

²¹ *Founding Church of Scientology v. Bell*, 603 F.2d 945,949 (D.C. Cir. 1979).

²² *King v. U.S. Dep't of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added).

²³ *Id.* at 224 (citing *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

²⁴ See 5 U.S.C. § 552(b).

Ms. Katherine Gallo
April 4, 2012
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as to make segregation impossible, please state what portion of the document is non-exempt and how the material is dispersed throughout the document.²⁵ Claims of non-segregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

In an effort to facilitate record production within the statutory time limit, Cause of Action prefers to accept documents in electronic format (e.g., e-mail, .pdfs). When necessary, Cause of Action will accept the "rolling production" of documents, but requests that you provide prompt notification of any intent to produce documents on a rolling basis.

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 [REDACTED] or [REDACTED] at [REDACTED]

[REDACTED] We look forward to receiving the requested documents and a waiver of search, review, and duplication costs within twenty (20) business days. Thank you for your cooperation.

Sincerely,

[REDACTED]

Encl. Responding to Document Requests, Definitions

²⁵ See *Mead Data Central*, 566 F.2d at 261.

Responding to Document Requests

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to Cause of Action.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by, any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. Cause of Action's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. When you produce documents, you should identify the paragraph in Cause of Action's request to which the documents respond.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
6. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with Cause of Action Foundation staff to determine the appropriate format in which to produce the information.
7. If compliance with the request cannot be made in full, compliance shall be made to the extent possible and shall include an explanation of why full compliance is not possible.
8. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
9. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.

10. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents that would be responsive as if the date or other descriptive detail were correct.
11. The time period covered by this request is included in the attached request. To the extent a time period is not specified, produce relevant documents from January 1, 2009, to the present.
12. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
13. All documents shall be Bates-stamped sequentially and produced sequentially.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmation, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email, regular mail, telexes, releases, or otherwise.
3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural numbers, and vice versa. The masculine includes the feminine and neutral genders.
4. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term "referring or relating," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

Copy of the
Email

Please - keep in the file

Gramian, Nikki

From: [REDACTED]
Sent: Monday, April 16, 2012 4:23 PM
To: Gramian, Nikki
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

Ms. Gramian,

This is correct. Thank you for your time and energy on this matter.

[REDACTED]

From: Gramian, Nikki [mailto:Nikki.Gramian@oig.dhs.gov]
Sent: Monday, April 16, 2012 4:19 PM
To: [REDACTED]
Cc: Gramian, Nikki
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

[REDACTED]

This follow-up email confirms our understanding regarding your request for "on the spot cash awards." Per our conversation, you agreed that OIG FOIA unit shall produce a list of all cash awards OIG employees and other individuals outside of OIG have received from January 2009 to present. This list will have the following fields:

Date,
name of awardees,
type of cash award, (e.g. on the spot cash award), and
amount of cash received.

Kindly confirm this understanding.

From: Gramian, Nikki
Sent: Monday, April 16, 2012 2:57 PM
To: [REDACTED]
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

[REDACTED] Thank you for your clarification below. What I meant by saying "you agree to obtain. . ." was that our office would compile a list and provide you the list which will have the information I outlined below (e.g., date, name of awardees...)

Regarding the "on the spot cash award" issue, the topic is lengthy. Do you mind if I chat with you about it first, then type up the outcome of the clarification I am seeking?

From: [REDACTED]
Sent: Monday, April 16, 2012 1:55 PM
To: Gramian, Nikki
Subject: RE: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

Hi Ms. Gramian,

The below e-mail is indeed an accurate representation of our conversation, except where you state "you agreed to obtain a list. . ." I'm sure that this is just a typo, but to be clear we agreed that your office would obtain a list. I would have no way of obtaining such a list. Besides this small mistake your e-mail is entirely accurate. I enjoyed our call this morning and apologize that I was at lunch during your second call. Feel free to reply to this email with your question regarding "on the spot cash awards."

Best,

[REDACTED]

From: Gramian, Nikki [<mailto:Nikki.Gramian@oig.dhs.gov>]

Sent: Monday, April 16, 2012 12:19 PM

To: [REDACTED]

Cc: [REDACTED] Kuehn, Stephanie

Subject: FOIA request for Commemorative, awards, plaques, tokens, etc. (FOIA file# 2012-75)

[REDACTED]

Thank you for our telephone conversation of this morning regarding your FOIA request for all OIG records showing "the acquisition or use of commemorative items, including but not limited to coins, trophies, certificates or any other form of token or award."

To confirm our conversation, you agreed to obtain a list, or if one available, an excel spread sheet showing the following information:

Date,
Name of awardees,
Type of award (i.e. plaques, trophies, coins),
Purpose (i.e. retirement), and finally
Cost of the item.

You also stated you are not interested in certificates that are printed in house.

I just left you a voice message about "on the spot cash awards." So a follow up email **will be sent** regarding cash awards after I get clarification on this issue.

Kindly acknowledge this agreement so that we can send our search request to our acquisition division to compile a list with the above-referenced fields.

Thank you.

*Nikki Gramian
DHS/Office of Inspector General
Office of Counsel
(202) 254-4001*

EXHIBIT 3

Document 1

Employee Name	Type of Award	Date of Award	Purpose of Award	Cost of Item
	Curved Tumbler	11/29/2010	Summer Picnic Volunteer	\$ 10.50
	DHS OIG Plaque	11/30/2010	Retirement from federal government	Provided by OM
	DHS OIG Shadow Box	11/30/2010	Retirement from federal government	\$ 150.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	CIGIE Plaque	1/15/2011	Award Recognition for Grant Audit	\$ 57.00
	15 oz. Blue Mug	3/23/2011	CFC Representative for Audits	\$ 8.50
	Silver Column Clock	3/23/2011	Audit Work	\$ 36.95
	Silver Column Clock	3/23/2011	Audit Work	\$ 36.95
	Silver Column Clock	3/23/2011	Audit Work	\$ 36.95
	Silver Column Clock	3/23/2011	Audit Work	\$ 36.95
	Rollerball Pen	4/27/2011	Diversity Guest Speaker	\$ 12.95
	Silver Column Clock	4/27/2011	Diversity Guest Speaker	\$ 36.95
	DHS OIG Plaque	4/30/2011	Retirement from federal government	Provided by OM
	Zippered Leather Portfolio	5/25/2011	Departure of intern	\$ 23.95
	Nike Crush Ball Sleeve	8/30/2011	Retirement recognition	\$ 9.50
	Zippered Leather Portfolio	8/30/2011	Retirement recognition	\$ 23.95
	Leather Portfolio	10/3/2011	HR Specialist departing agency	\$ 18.95
	DHS OIG Plaque	10/26/2011	Retirement from federal government	Provided by OM
	Curved Tumbler	11/9/2011	Diversity Guest Speaker	\$ 10.50
	DHS OIG Plaque	12/31/2011	Retirement from federal government	Provided by OM
	DHS OIG Plaque	1/15/2012	Retirement from federal government	Provided by OM
	DHS OIG Plaque	5/4/2012	Retirement from federal government	Provided by OM
Total:				\$ 2,257.45

EXHIBIT 4

Document 2

Front Office

FRONT OFFICE AWARDS
FY 2010

	Average			Total	
	\$833			\$7,500	
DATE REC'D	EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
11/24/2009	Column redacted under exemption b(6)	Perf-Cash	Ind	\$2,000	12/20/2009
1/28/2010		SPOT-Cash	Ind	\$500	2/4/2010
6/28/2010		SPOT-Cash	Grp (6)	\$500	7/7/2010
6/28/2010		SPOT-Cash	Grp (6)	\$500	7/7/2010
6/28/2010		SPOT-Cash	Grp (6)	\$500	7/7/2010
6/28/2010		SPOT-Cash	Grp (6)	\$500	7/7/2010
6/28/2010		SPOT-Cash	Grp (6)	\$500	7/7/2010
6/28/2010		SPOT-Cash	Grp (6)	\$500	7/7/2010
9/1/2010		S/A-Cash	Ind	\$2,000	9/12/2010

Administration

OFFICE OF ADMINISTRATION AWARDS
FY 2010

Average			Total	
\$944			\$83,800	
EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
Column redacted under exemption b(6)	SPOT-Cash	Ind	\$500	11/13/2009
	Perf-Cash	Ind	\$1,000	11/8/2009
	Perf-Cash	Ind	\$2,000	11/8/2009
	Perf-Cash	Ind	\$1,500	11/8/2009
	Perf-Cash	Ind	\$1,000	11/8/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$3,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$3,000	11/22/2009
	Perf-Cash	Ind	\$3,000	11/22/2009
	Perf-Cash	Ind	\$3,000	11/22/2009
	Perf-Cash	Ind	\$3,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$2,500	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$750	12/20/2009
	Perf-Cash	Ind	\$750	12/20/2009
	Perf-Cash	Ind	\$2,000	12/20/2009
	Perf-Cash	Ind	\$2,250	12/20/2009
	Perf-Cash	Ind	\$1,250	12/20/2009
	S/A-Cash	Ind	\$1,000	12/20/2009
	S/A-Cash	Ind	\$750	12/20/2009
	S/A-Cash	Grp (2)	\$750	1/17/2010
	S/A-Cash	Grp (2)	\$500	1/17/2010
	Perf-Cash	Ind	\$750	1/31/2010
	Perf-Cash	Ind	\$750	1/31/2010
	SPOT-Cash	Ind	\$250	1/31/2010
	SPOT-Cash	Ind	\$250	1/31/2010
	SPOT-Cash	Ind	\$500	3/1/2010
	SPOT-Cash	Ind	\$500	3/1/2010
	SPOT-Cash	Ind	\$500	3/1/2010
	SPOT-Cash	Ind	\$500	3/4/2010
	S/A-Cash	Ind	\$1,000	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$500	4/25/2010
	S/A-Cash	Grp (12)	\$300	4/25/2010

Audits

OFFICE OF AUDIT AWARDS
FY 2010

Average			Total	
\$1,355			\$211,450	
EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
Column redacted under exemption b(6)	Spot-Cash	Ind	\$500	11/6/2009
	Spot-Cash	Ind	\$500	11/6/2009
	Perf-Cash	Ind	\$1,250.00	11/22/2009
	Perf-Cash	Ind	\$2,250.00	11/22/2009
	Perf-Cash	Ind	1250	11/22/2009
	Perf-Cash	Ind	1250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	12/20/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009

OFFICE OF AUDIT AWARDS
FY 2010

EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,125	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009

OFFICE OF AUDIT AWARDS
FY 2010

EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009

**OFFICE OF AUDIT AWARDS
FY 2010**

EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,125	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Spot-Cash	Ind	\$250	2/4/2010
	Spot-Cash	Grp (10)	\$500	2/4/2010
	Spot-Cash	Grp (10)	\$350	2/4/2010
	Spot-Cash	Grp (10)	\$250	2/4/2010
	Spot-Cash	Grp (10)	\$250	2/4/2010
	Spot-Cash	Grp (10)	\$200	2/4/2010

Counsel

**COUNSEL AWARDS
FY 2010**

Average			Total	
\$750			\$10,500	
EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
Column redacted under exemption b(6)	SPOT-Cash	Ind	\$250	8/10/2010
	SPOT-Cash	Ind	\$250	8/10/2010
	SPOT-Cash	Ind	\$500	8/10/2010
	Perf-Cash	Ind	\$500	8/15/2010
	Perf-Cash	Ind	\$500	8/15/2010
	Perf-Cash	Ind	\$1,500	8/15/2010
	Perf-Cash	Ind	\$1,500	8/15/2010
	Perf-Cash	Ind	\$1,500	8/15/2010
	Perf-Cash	Ind	\$500	8/15/2010
	Perf-Cash	Ind	\$500	8/15/2010
	Perf-Cash	Ind	\$500	8/15/2010
	Perf-Cash	Ind	\$1,500	8/15/2010
	SPOT-Cash	Ind	\$500	9/22/2010
	SPOT-Cash	Ind	\$500	9/22/2010

Emergency
Management
Oversight

OFFICE OF EMERGENCY MANAGEMENT OVERSIGHT AWARDS
FY 2010

Average			Total	
\$1,221			\$78,150.00	
EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
Column redacted under exemption b(6)	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$,1000	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$750	11/22/2009
	Perf-Cash	Ind	\$500	11/22/2009
	Perf-Cash	Ind	\$500	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$800	11/22/2009
	Perf-Cash	Ind	\$750	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$800	11/22/2009
	Perf-Cash	Ind	\$750	11/22/2009
	Perf-Cash	Ind	\$1,200	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,700	11/22/2009
	Perf-Cash	Ind	\$1,200	11/22/2009
	Perf-Cash	Ind	\$750	11/22/2009

OFFICE OF EMERGENCY MANAGEMENT OVERSIGHT AWARDS
FY 2010

EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$1,700	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$800	11/22/2009
	Perf-Cash	Ind	\$750	11/22/2009
	Perf-Cash	Ind	\$800	11/22/2009
	Perf-Cash	Ind	\$1,300	11/22/2009
	Perf-Cash	Ind	\$1,000	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	S/A-Cash	Ind	\$1,000.00	8/29/2010
	S/A-Cash	Ind	\$1,000.00	8/29/2010
	S/A-Cash	Ind	\$1,000.00	8/29/2010
	S/A-Cash	Ind	\$1,000.00	9/12/2010
	S/A-Cash	Ind	\$1,500.00	9/12/2010

Inspections

OFFICE OF INSPECTIONS AWARDS
FY 2010

Average			Total	
\$862			\$37,912	
EMPOYEE NAME	TYPE	GRP or IND	AMOUNT	EFFEC DATE
Column redacted under exemption b(6)	OTS	Ind	\$500	12/2/2009
	OTS	Ind	\$500	12/2/2009
	OTS	Ind	\$500	12/2/2009
	OTS	Ind	\$500	12/2/2009
	OTS	Ind	\$500	12/2/2009
	Perf-Cash		\$1,000	11/22/2009
	Perf-Cash		\$1,500	11/22/2009
	Perf-Cash		\$1,500	11/22/2009
	Perf-Cash		\$1,500	11/22/2009
	Perf-Cash		\$850	11/22/2009
	Perf-Cash		\$1,200	11/22/2009
	Perf-Cash		\$1,200	11/22/2009
	Perf-Cash		\$1,000	11/22/2009
	Perf-Cash		\$1,200	11/22/2009
	Perf-Cash		\$1,200	11/22/2009
	Perf-Cash		\$1,500	11/22/2009
	Perf-Cash		\$1,200	11/22/2009
	Perf-Cash		\$1,200	11/22/2009
	Perf-Cash		\$600	1/17/2010
	Perf-Cash		\$800	1/17/2010
	Perf-Cash		\$1,000	1/17/2010
	Perf-Cash		\$1,000	1/17/2010
	Perf-Cash		\$1,000	1/17/2010
	Perf-Cash		\$600	1/17/2010
	Perf-Cash		\$800	1/17/2010
	Perf-Cash	Ind	\$1,000	1/17/2010
	S/A-Cash	Ind	\$812	12/20/2009
	S/A-Cash	Ind	\$1,750	1/31/2010
	S/A-Cash	Grp (4)	\$1,000	1/31/2010
	S/A-Cash	Grp (4)	\$1,000	1/31/2010
	S/A-Cash	Grp (4)	\$1,000	1/31/2010
	S/A-Cash	Grp (4)	\$1,000	1/31/2010
	SPOT-Cash	Ind	\$500	3/1/2010
	SPOT-Cash	Ind	\$500	3/1/2010
	SPOT-Cash	Grp (3)	\$500	8/10/2010
	SPOT-Cash	Grp (3)	\$500	8/10/2010
	SPOT-Cash	Grp (3)	\$500	8/10/2010
	SPOT-Cash	Ind	\$500	8/31/2010
	SPOT-Cash	Ind	\$500	8/31/2010
	S/A-Cash	Ind	\$750	8/29/2010
	SPOT-Cash	Ind	\$500	9/7/2010
	SPOT-Cash	Ind	\$500	9/7/2010
	SPOT-Cash	Ind	\$250	9/7/2010
	SPOT-Cash	Ind	\$500	9/7/2010

Investigations

OFFICE OF INVESTIGATIONS AWARDS
FY 2010

Average			Total	
\$1,136			\$204,500	
EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
Column redacted under exemption b(6)	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	500.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	900.00	12/20/2009
	Perf-Cash	Ind	900.00	12/20/2009
	Perf-Cash	Ind	750.00	12/20/2009
	Perf-Cash	Ind	1,800.00	12/20/2009
	Perf-Cash	Ind	1,800.00	12/20/2009
	Perf-Cash	Ind	900.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,700.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	2,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,500.00	12/20/2009
	Perf-Cash	Ind	1,000.00	12/20/2009
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,750.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010

OFFICE OF INVESTIGATIONS AWARDS
FY 2010

EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	500.00	1/17/2010
	Perf-Cash	Ind	500.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,200.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	800.00	1/17/2010
	Perf-Cash	Ind	800.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,500.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010

OFFICE OF INVESTIGATIONS AWARDS
FY 2010

EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
	Perf-Cash	Ind	1,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	2,000.00	1/17/2010
	Perf-Cash	Ind	1,000.00	1/17/2010
	SPOT-Cash	Ind	\$500	1/19/2010
	S/A-Cash	Ind	\$1,000	1/31/2010
	S/A-Cash	Ind	\$2,000	1/31/2010
	S/A-Cash	Ind	\$1,000	1/31/2010
	Perf-Cash	Ind	\$2,000	1/31/2010
	SPOT-Cash	Ind	\$500	3/4/2010
	SPOT-Cash	Ind	\$500	3/4/2010
	SPOT-Cash	Ind	\$500	3/11/2010
	SPOT-Cash	Ind	\$500	4/5/2010
	SPOT-Cash	Ind	\$500	4/5/2010
	SPOT-Cash	Ind	\$500	4/5/2010
	S/A-Cash	Ind	\$1,000	4/25/2010
	S/A-Cash	Ind	\$1,000	4/25/2010
	S/A-Cash	Ind	\$2,000	4/25/2010
	S/A-Cash	Ind	\$1,000	5/9/2010
	S/A-Cash	Ind	\$1,000	5/9/2010
	S/A-Cash	Ind	\$1,000	5/9/2010
	S/A-Cash	Ind	\$1,000	5/9/2010
	S/A-Cash	Ind	\$2,000	5/9/2010
	S/A-Cash	Ind	\$1,000	5/9/2010
	SPOT-Cash	Ind	\$500	5/13/2010
	S/A-Cash	Ind	\$1,000	6/6/2010
	S/A-Cash	Ind	\$2,000	6/6/2010
	S/A-Cash	Ind	\$2,000	6/6/2010
	S/A-Cash	Ind	\$500	6/6/2010
	S/A-Cash	Ind	\$1,000	6/6/2010
	S/A-Cash	Ind	\$500	6/6/2010
	S/A-Cash	Ind	\$1,500	7/4/2010
	S/A-Cash	Ind	\$1,000	8/15/2010
	S/A-Cash	Ind	\$1,000	8/15/2010
	S/A-Cash	Ind	\$2,000	8/15/2010
	SPOT-Cash	Ind	\$500	8/10/2010
	S/A-Cash	Ind	\$1,000	9/12/2010
	S/A-Cash	Ind	\$1,000	9/12/2010
	SPOT-Cash	Ind	\$500	9/4/2010
	S/A-Cash	Ind	\$2,000	9/12/2010
	S/A-Cash	Ind	\$1,000.00	9/12/2010
	SPOT-Cash	Ind	\$400.00	9/4/2010
	S/A-Cash	Ind	\$1,000.00	9/12/2010
	SPOT-Cash	Ind	\$500.00	9/4/2010
	S/A-Cash	Ind	\$2,000.00	9/12/2010
	S/A-Cash	Ind	\$1,500.00	9/12/2010
	S/A-Cash	Ind	\$2,000.00	9/12/2010

IT Audits

IT AUDIT AWARDS
FY 2010

Average			Total	
\$1,211			\$50,850	
EMPLOYEE NAME	TYPE	GRP or IND	AMOUNT	EFF DATE
Column redacted under exemption b(6)	S/A-Cash	Ind	\$750	11/8/2009
	S/A-Cash	Ind	\$750	11/8/2009
	S/A-Cash	Ind	\$750	11/8/2009
	SPOT	Ind	\$500	11/13/2009
	SPOT	Ind	\$500	11/13/2009
	Perf-Cash	Ind	\$1,000	11/8/2009
	Perf-Cash	Ind	\$1,000	11/8/2009
	Perf-Cash	Ind	\$1,500	11/8/2009
	Perf-Cash	Ind	\$2,000	11/8/2009
	Perf-Cash	Ind	\$1,250	11/22/2009
	Perf-Cash	Ind	\$2,000	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$1,500	11/22/2009
	Perf-Cash	Ind	\$2,000	12/20/2009
	S/A-Cash	Grp (3)	\$1,500	1/31/2010
	S/A-Cash	Ind	\$750	2/28/2010
	S/A-Cash	Ind	\$750	2/28/2010
	S/A-Cash	Ind	\$1,000	4/11/2010
	S/A-Cash	Ind	\$1,500	5/9/2010
	S/A-Cash	Ind	\$1,000	5/9/2010
	S/A-Cash	Ind	\$1,000	6/6/2010
	S/A-Cash	Ind	\$1,000	6/6/2010
	S/A-Cash	Ind	\$1,500	6/6/2010
	S/A-Cash	Grp (4)	\$1,000	7/4/2010
	S/A-Cash	Grp (4)	\$1,000	7/4/2010
	S/A-Cash	Grp (4)	\$1,500	7/4/2010
	S/A-Cash	Grp (4)	\$1,750	7/4/2010
	S/A-Cash	Ind	\$750	8/1/2010
	S/A-Cash	Ind	\$750	8/1/2010
	S/A-Cash	Ind	\$750	8/1/2010
	S/A-Cash	Ind	\$750	8/1/2010
	S/A -Cash	Ind	\$1,800	8/29/2010
	S/A -Cash	Ind	\$1,000	8/29/2010
	S/A -Cash	Ind	\$2,000	8/29/2010
	S/A-Cash	Ind	\$1,000	8/29/2010
	S/A-Cash	Ind	\$2,000	8/29/2010
	S/A-Cash	Ind	\$1,500	8/29/2010
	S/A-Cash	Ind	\$1,500	8/29/2010
	S/A-Cash	Grp (5)	\$1,500	8/29/2010
	S/A-Cash	Grp (5)	\$1,000	8/29/2010
	S/A-Cash	Ind	\$2,000	9/12/2010
	SPOT-Cash	Ind	\$300	9/15/2010

EXHIBIT 5

Document 3

Other Items

Office of Management - Other Comemorative Items (2009-2012)

Employee Name	Date of Award	Type of Award	Purpose of Award	Cost of Item
Column redacted under exemption b(6)	4/24/2009	DHS Madallian Plaque		\$ 1,998.75
			+ shipping	\$ 40.00
	5/22/2009	Statues		\$ 75.00
			IG Honor Award Cermony	\$ 75.00
				\$ 66.00
			+ shipping	\$ 15.00
	1/15/2010	DHS Medallian Plaque		\$ 2,883.30
			+ shipping	\$ 50.00
	11/30/2011	DHS Medallian Plaque		\$ 2,940.00
			+ shipping	\$ 50.00
	12/9/2011	DHS Plaque		\$ 2,064.00
			+ shipping	\$ 1.99
	5/11/2011	DHS Medallian Plaque		\$ 2,786.30
			+ shipping	\$ 20.00
	3/22/2011	DHS Medallian Plaque	Retirement	\$ 849.50
			+ shipping	\$ 12.00
	2/17/2011	B&A Metal Graphics Box (IG)14 X 17	Retirement	\$ 220.00
	2/17/2011	B&A Metal Graphics Box (IG) 12 X 15	Retirement	\$ 125.00
	2/17/2011	Lucite Badge	Retirement	\$ 75.00
	1/9/2011	DHS Medallian Plaque	Retirement	\$ 2,883.30
			+ shipping	\$ 50.00
	1/15/2011	DHS Medallian Plaque		\$ 2,883.30
			+ shipping	\$ 50.00
	2/10/2011	Badge in Lucite	Retirement	\$ 61.50
	2/17/2011	Plaque	Retirement	\$ 135.00
	8/24/2011	Badge in Lucite	Retirement	\$ 67.80
	8/24/2011	Plaque	Retirement	\$ 125.00
	4/18/2011	Shadow Box	Retirement	\$ 135.00
	4/22/2011	Badge in Lucite	Retirement	\$ 66.00
	8/31/2011	Badge in Lucite	Retirement	\$ 66.00
	2/10/2012	Shadow Box	Retirement	\$ 135.00
	2/10/2012	Badge in Lucite Mold (Plate)	Retirement	\$ 73.50
	10/28/2011	Badge in Lucite Mold (Plate)	Retirement	\$ 76.50
	3/8/2011	DHS-OIG/SA Coins	Recognition	\$ 6,300.00
			+ shipping	\$ 450.00
Total:				\$ 27,904.74

See the "Recognition Appreciation" and "Retirement Awards" charts for more information about the recipients and purposes of the awards listed. DHS-OIG's records do not cross-reference how the information in these three charts goes together.

Recognition

Appreciation

Office of Management - Recognition and Appreciation (2009-2012)

Employee Name	Affiliation	Date of Award	Type of Award	Purpose of Award	Cost of Item
Column redacted under exemption b(6)	Asst US States Attorney	6/6/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Asst US States Attorney	6/6/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	DEA	8/11/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	OIG	8/11/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	OIG		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	PA State Troopers	8/8/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
		3/7/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Asst US States Attorney	3/7/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Asst US States Attorney	3/7/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Special Agent	3/7/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Detective	4/4/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Organizational Leadership Consortium	4/4/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Pelham Specialty Training, Inc.	4/4/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
		4/4/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Denver Police Dept.	12/9/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"

		8/8/2011	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Chaplain, Chicago Police Department	9/30/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Bureau of Public Debt	9/30/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Bureau of Public Debt	11/16/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Federal Emergency Management Agency	11/16/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Asst US States Attorney	1/27/2012	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
		1/27/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Special Agent	2/20/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Immigration Service Officer	3/25/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Indiana State Police	3/25/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Asst US States Attorney	7/7/2009	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Assistant United States Attorney	4/16/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorneys Office	4/16/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Federal Air Marshal	4/16/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorneys Office	4/16/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"

	Bureau of Alcohol, Tobacco, Firearms & Explosives	4/16/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Bureau of Alcohol, Tobacco, Firearms & Explosives	4/16/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorneys Office	4/13/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	OIG	4/23/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	OIG	4/20/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Assistant United States Attorney	4/26/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Arizona Dept. of Public Safety	5/13/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorneys Office	9/28/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney's Office		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney's Office		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	FBI		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	FBI		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Minneapolis Police Dept	5/4/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Minneapolis Police Dept	5/4/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Minneapolis Police Dept		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"

	District of Minnesota		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	DOJ		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Minneapolis Police Dept		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	OIG-transfer to another agency		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	CGIS		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
			plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	FBI		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	DOJ		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Dept. of Housing and Urban Dev.		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
			plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
			plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"

	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	CBP	10/1/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Chicago Police Dept.	10/1/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	DHS - Baton Rouge RAC office	10/1/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	FBI	10/1/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney	9/8/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	OIG	9/10/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	ICE		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	ICE		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Customs and Border Protection		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	US Attorney		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Customs and Border Protection		plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"
	Former ICE-DRO, Chicago, IL	5/24/2010	plaque/trophy	Recognition/appreciation	See "Other Commemorative Items"

Retirement Awards

Office of Management - Retirement Awards (2009-2012)

Employee Name	Date of Award	Type of Award	Purpose of Award	Cost of Item
Column redacted under exemption b(6)	6/15/2010	Plaque	Retirement	see "Other Commemorative Items"
	7/2/2010	Plaque	Retirement	see "Other Commemorative Items"
	7/15/2010	Plaque	Retirement	see "Other Commemorative Items"
	8/31/2010	Plaque	Retirement	see "Other Commemorative Items"
	7/30/2010	Plaque	Retirement	see "Other Commemorative Items"
	9/23/2010	Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
	10/22/2011	Plaque	Retirement	see "Other Commemorative Items"
	11/30/2011	Plaque	Retirement	see "Other Commemorative Items"
	12/31/2011	Plaque	Retirement	see "Other Commemorative Items"
	12/2/2011	Plaque	Retirement	see "Other Commemorative Items"
	3/1/2011	Plaque	Retirement	see "Other Commemorative Items"
	5/12/2012	Plaque	Retirement	see "Other Commemorative Items"
	12/15/2010	Plaque	Retirement	see "Other Commemorative Items"
	3/25/2010	Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
		Plaque	Retirement	see "Other Commemorative Items"
	July 2010	Plaque	Retirement	see "Other Commemorative Items"
	12/2/2010	Plaque	Retirement	see "Other Commemorative Items"
	7/31/2010	Plaque	Retirement	see "Other Commemorative Items"

EXHIBIT 6

FOR IMMEDIATE RELEASE
October 09, 2012
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Coin for Coins: Cause of Action Finds Federal Agencies in Violation of Executive Order on Spending

Taxpayer Dollars Purchased iPods, Plaques, Yo-Yos and Coins

WASHINGTON – Federal government accountability group Cause of Action ([CoA](#)) today released findings of direct violations of President Obama’s order for agencies to limit spending on promotional items. A six month investigation reveals a pattern of wasteful spending across nine specific federal agency offices that are catalogued in [Coin for Coins: Federal Agency Spending on Promotional and Commemorative Items](#), a report released today.

In November 2011, President Obama advised federal agencies through the Executive Order on Promoting Efficient Spending (EO 13589) that “[a]gencies should limit the purchase of promotional items (e.g., plaques, clothing and commemorative items), in particular where they are not cost-effective.” ~~CoA’s initial investigation into nine agency offices documents \$1,123,118 spent on items such as yo-yos, water bottles, pens, trophies, and other awards.~~

Some of the most egregious examples of spending include:

- One United States Department of Agriculture office spent \$38,870 on GPS systems, Nook 3G digital readers, Apple iPods, and Nikon Coolpix cameras for staff.
- Department of Justice COPS spent over \$12,000 on commemorative items for a single conference.
- ~~Department of Homeland Security OIG offices spent nearly \$700,000 on awards in fiscal year 2010.~~
- Department of the Interior Fish and Wildlife Service spent over \$86,000 on commemorative items between 2009 and 2012.

Dan Epstein, executive director of Cause of Action, highlights how this pattern of spending is a symptom of a larger problem in Washington:

“Our investigation shows that a federal government culture of waste, fraud and mismanagement remains an unchecked liability throughout federal agencies. A cavalier attitude toward the efficient use of tax dollars permeates the executive branch. While some agencies track their spending, revealing patterns of waste, others don’t even bother to document it. The Department of Defense, with one of the largest budgets, informed Cause of Action that it has no means of tracking promotional spending, rendering accountability impossible. Just in the past year we’ve seen reports of the Government Services Administration and Veterans Affairs conference spending

scandals, Secretary Sebelius’s Hatch Act violations, and conflict of interest violations by NLRB Acting General Counsel Lafe Solomon. It is clear that those in the current Administration with the responsibility to steward taxpayer dollars, the President included, are not taking their jobs, nor a commitment to ethics and transparency, seriously.”

Following the April, 2012 GSA spending scandal report from the GSA Inspector General, CoA submitted [Freedom of Information Act \(FOIA\) requests](#) to 32 federal agency offices demanding production of information concerning commemorative awards that have been paid for by taxpayer dollars.

[Coin for Coins: Federal Agency Spending on Promotional and Commemorative Items](#) analyzes spending from the United States Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS), United States Department of Homeland Security (DHS), OIG, United States Department of Agriculture (USDA), Food Safety and Inspection Service (FSIS), United States Department of the Interior (DOI), Fish and Wildlife Service (FWS), United States Department of Agriculture (USDA), Forest Service (FS) Alaska Region, United States Department of Agriculture (USDA), Forest Service (FS) Southwestern Region, United States Department of Agriculture (USDA), Rural Development (RD), Department of Energy (DOE), OIG, and the United States Department of Defense.

About Cause of Action:

Cause of Action is a nonprofit, nonpartisan organization that uses investigative, legal, and communications tools to educate the public on how government accountability and transparency protects taxpayer interests and economic opportunity. For more information, visit www.causeofaction.org

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EXHIBIT 7

Daniel Epstein

From: Hillburg, William <William.Hillburg@oig.dhs.gov>
Sent: Wednesday, October 10, 2012 2:29 PM
To: Daniel Epstein
Cc: Edwards, Charles
Subject: Cause for Action update

Follow Up Flag: Follow up
Flag Status: Flagged

Your summary is accurate, but I believe the entire section of your report dealing with DHS OIG should be deleted as incongruous and erroneous. Your report, as titled and in all other cited examples, is about coins and other promotional items. Our awards are not trinkets, they are bonuses for exemplary employee performance, a program used throughout the Federal Government and used sparingly by DHS-OIG. Given our more than 700 employees, the \$700,000 outlay averaged less than \$1,000 per employee, minus the normal payroll deductions. At the very least, your report needs to be revised to include an extensive clarification as to the true nature of our "awards", and the misinterpretations by your staff that led you to misrepresent them. Reviewing the OIG data you used, I find it hard to believe that outlays with notations such as "spot cash" could be interpreted by Cause for Action to be commemorative coins or other trinkets.

I agree the Fox News went over the top with its story, but it later updated it with information from us on the nature of our outlay and comments from Mr. Edwards. Your error, based on your misinterpretation of the FOIA docs you received, and our process for issuing them, resulted in a false and negative depiction of this office. It's an honest mistake that needs to be rectified. If you had called the Office of Public Affairs to verify, it's a mistake that would have never happened.

From: Daniel Epstein [mailto:daniel.epstein@causeofaction.org]
Sent: Wednesday, October 10, 2012 12:34 PM
To: Hillburg, William
Subject: Memorializing our 10/10/2012 Conversation
Importance: High

Mr. Hillburg:

I want to summarize our Wednesday October 10, 2012 telephonic conversation that occurred at approximately 10:30 AM EST.

Thank you for getting back to me today. The Cause of Action report at page 13 states: "'Document 2' revealed that a total of almost \$700,000 was spent on 'awards' by eight DHS OIG departments in just the 2010 fiscal year alone." At no point did Cause of Action identify these expenditures as for promotional items. We agreed that the reporter may have mischaracterized this evidence so as to lead the reader to assume this spending was on promotional items. We agreed the document, which is attached, reveals that these expenditures were mostly cash and spot bonuses and not promotional items as contemplated by EO 13589.

We also discussed that the original FOIA request, attached, was narrowly tailored to promotional items and a reasonable person would expect that the production of relevant documents concerning awards would refer or relate to promotional items based on the language of the request. We were informed that Counsel reviews FOIA productions only for concerns about privilege and disclosure. We were informed that Counsel does not review productions for accuracy. It

was your opinion that the documents did not concern promotional items and you advised that the accuracy of such productions could be referred to your office for verification.

You mentioned in your e-mail that the CoA report was “incorrect” and we discussed and agreed that there were no material misrepresentations of fact in the CoA report. You also state in your e-mail that the awards were based on merit, following a full evaluation of the employees. We did not discuss what OPM Nature of Action Codes (NOAC) applied to these awards, as it appears there are individual (NOAC 879 and NOAC 840 awards) and group awards (NOAC 841). For NOAC 879, [5 U.S.C. § 5384](#) applies, which requires performance review board recommendations for any bonus; NOAC 840 awards are interpreted under [5 USC § 4505a](#), which does not require board recommendations; and “Agency awards for cost savings disclosures” are interpreted under [5 U.S.C. § 4512](#). But I wanted to be clear that we did not discuss the NOAC or statutory bases for the awards.

I hope this clarifies our conversation and I appreciate your interest in Cause of Action. My best to Mr. Edwards.

Very truly yours,

Daniel Z. Epstein

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From: Wufoo [no-reply@wufoo.com]
Sent: Tuesday, October 09, 2012 8:30 PM
Subject: Contact Us [#118]

Name William Hillburg
Email william.hillburg@oig.dhs.gov<<mailto:william.hillburg@oig.dhs.gov>>
Your Message

Cause of Action’s Coin for Coins report on the Office of Inspector General, Department of Homeland Security, is incorrect, DHS OIG did not spend \$700,000 in 2010 on coins and other awards. That amount was spent on employee performance awards, based on merit and following a full evaluation of each employee for their work during FY 2010. DHS OIG has more than 700 employees, so the average award was less than \$1,000. I would like a correction to be issued by Cause of Action to clear up this matter and would be glad to assist you in determining the error you may have

derived from a FOIA request. In future, I would appreciate the courtesy of a call before you issue a report, so that we may comment on or clear up any matters before they are given to media outlets.

EXHIBIT 8

Daniel Epstein

From: Hillburg, William <William.Hillburg@oig.dhs.gov>
Sent: Thursday, October 11, 2012 8:57 AM
To: Daniel Epstein
Cc: Edwards, Charles; Morales, Arlen
Subject: Your erroneous report

Please notify me when you have posted a revised version of your report and a clarification/retraction. Also, please notify the staff of Government Executive, which today has a rewrite of your erroneous report. This office has already alerted them. You need to remediate this damage ASAP.

Bill Hillburg, Acting Director
Office of Public Affairs
Office of Inspector General
Department of Homeland Security
(202) 254-4070