



June 25, 2015

BY CERTIFIED MAIL

Mr. Ryan Law
FOIA Public Liaison
FOIA and Transparency
FOIA Request
U.S. Department of the Treasury
Washington, D.C. 20220

Ms. Cynthia Sydnor
FOIA Public Liaison
Disclosure Office
Bureau of the Fiscal Service
401 Fourteenth Street, S.W. Room 508C
Washington, D.C. 20227

Re: Freedom of Information Act Request

Dear Mr. Law and Ms. Sydnor:

I write on behalf of Cause of Action Institute (“Cause of Action”), a nonprofit government oversight organization committed to ensuring that discretionary decision-making is accountable, transparent, and fair.¹ Cause of Action is investigating the collection of user location information by the Department of the Treasury (“Treasury”) and the Bureau of the Fiscal Service (“BFS”) from users of the website tfm.fiscal.treasury.gov.

In or around June 2015, Cause of Action accessed a BFS website under the control and authority of Treasury. Cause of Action was surprised to find that when it attempted to access the Treasury Financial Manual located at tfm.fiscal.treasury.gov, the website prompted the user to allow it access to the user’s current location. Specifically, the user was presented with a message stating that the website tfm.fiscal.treasury.gov “wants to track [the user’s] physical location,” for example, and required the user to choose to allow Treasury to access the user’s location or to not allow such access.

Cause of Action experienced this prompt on web browsers Google Chrome, Safari, and Internet Explorer and therefore concluded that this prompt is specific to the website and not inadvertently generated by any third party search engine or internet service provider. The prompts

¹ CAUSE OF ACTION, www.causeofaction.org.

appeared on both desktop computers and on mobile devices. The prompts differed depending on browser and requested the location of the website user as follows:

Google Chrome

Prompt: "http://tfm.fiscal.treasury.gov wants to: Know your location"
Options: "Allow" or "Block"

Safari

Prompt: "http://tfm.fiscal.treasury.gov Would Like To Use Your Current Location"
Options: "Don't Allow" or "Ok"

Internet Explorer

Prompt: "tfm.fiscal.treasury.gov wants to track your physical location."
Options: "Allow Once" or "Option for this Site"

Cause of Action believes that the request for location information on the various search engines (hereinafter, collectively referred to as the "prompt") by Treasury and BFS constitutes an unwarranted invasion of privacy, could discourage individuals from accessing government information, and is unlawful under applicable statutes. Cause of Action detailed its concerns in a June 25, 2015 letter to Treasury Chief Information Officer Sanjeev Bhagowalia.²

Freedom of Information Act Request

In light of the foregoing and pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), Cause of Action requests that Treasury and BFS provide copies of the following records:

1. All records referring or relating to the prompt for location information at tfm.fiscal.treasury.gov;
2. All records constituting, setting forth, or related to any information or record generated about users of the website tfm.fiscal.treasury.gov;
3. All records related to the storage of the information or records requested in Request No. 2;
4. All records constituting, setting forth, or related to any information or record generated from users of the website tfm.fiscal.treasury.gov who allowed the website tfm.fiscal.treasury.gov to access their location;
5. All records related to the storage of the information or records requested in Request No. 4;
6. All records displaying an Office of Management and Budget control number applicable to the prompt for location information from tfm.fiscal.treasury.gov;
7. All records regarding or prepared pursuant to the Privacy Act, Paperwork Reduction Act, and E-Government Act of 2002 related to tfm.fiscal.treasury.gov;
8. All records regarding or constituting "privacy impact assessments," as the term is discussed in the E-Government Act of 2002, related to the prompt for location information at tfm.fiscal.treasury.gov;
9. All records of any "matching program," as the term is discussed in the Privacy Act, 5 U.S.C. § 552a, utilizing information generated by tfm.fiscal.treasury.gov;

² See Letter from Cause of Action to Sanjeev Bhagowalia, Chief Info. Officer, Dep't of Treas. (June 25, 2015) (on file with Cause of Action).

10. All records of any “system of records notices,” as the term is discussed in the Privacy Act, 5 U.S.C. § 552a, utilizing information generated by tfm.fiscal.treasury.gov;
11. All records of use, by Treasury, BFS, or any third party, including any other agency of the federal government, of the information collected from users of tfm.fiscal.treasury.gov; and
12. All records regarding website analytics for tfm.fiscal.treasury.gov which demonstrate, track, count, or collect information on the number of visitors to the site.

The time period for this request is January 20, 2009 through the present. This request is for records of Department of Treasury and BFS, including records of any agencies subsumed or absorbed by BFS, including the Bureau of the Public Debt and the Financial Management Service.

Request for News Media Status

For fee status purposes, Cause of Action qualifies as a “representative of the news media” under FOIA.³ Specifically, Cause of Action gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. Cause of Action gathers the news it regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. Cause of Action does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, and newsletters.⁴ These distinct works are distributed to the public through various media, including Cause of Action’s website, which has been viewed approximately 100,000 times in the past year alone.⁵ Cause of Action also disseminates news to the public via Twitter and Facebook, and it provides news updates to subscribers via e-mail.

The statutory definition of a “representative of the news media” unequivocally contemplates that organizations such as Cause of Action, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”⁶ In light of the foregoing, numerous federal agencies have appropriately recognized Cause of Action’s news media status in connection with its FOIA requests.⁷

³ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

⁴ See, e.g., *Cause of Action Launches Online Resource: ExecutiveBranchEarmarks.com*, CAUSE OF ACTION (Sept. 8, 2014), available at <http://goo.gl/935qAi>; *Legal and Political Issues Raised by the Loss of Emails at the IRS*, CAUSE OF ACTION (July 8, 2014), available at <http://goo.gl/PaoEyi>; CAUSE OF ACTION, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS (Mar. 18, 2014), available at <http://goo.gl/BiaEaH>; see also CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), available at <http://goo.gl/N0xSvs>; CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART I (Aug. 2, 2013), available at <http://goo.gl/GpP1wR>.

⁵ *Google Analytics* for <http://www.causeofaction.org> (on file with Cause of Action).

⁶ 5 U.S.C. § 552(a)(4)(A)(ii)(II).

⁷ See, e.g., FOIA Request No. 145-FOI-13785, Dep’t of Justice (Jun. 16, 2015); FOIA Request 15-00326-F, Dep’t of Educ. (Apr. 08, 2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm’n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep’t of Energy (Nat’l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Comm’n Comm’n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep’t of Energy (Dec. 4, 2014); Dep’t of State, F-2014-21360 (Dec. 3, 2014); Nat’l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, U.S. Dep’t of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, U.S. Dep’t of Interior (Office of Sec’y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-307, Dep’t of Energy (Nat’l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-F, Dep’t of Energy (Nat’l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat’l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01095, Sec. & Exch. Comm’n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep’t of Homeland Sec. (Jan. 8, 2014); FOIA Request DOC-OS-2014-000304, Dep’t of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2013-073, Dep’t of

Request for a Public Interest Fee Waiver

Cause of Action requests a public interest waiver of all applicable fees.⁸ This provision provides that agencies shall furnish requested records 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.”⁹ In this case, the requested records would unquestionably shed light on the “operations or activities of the government,” namely, the collection and use of location information from the public. This information is likely to contribute significantly to public understanding of the laws governing the collection of information from the public and the use of such information.

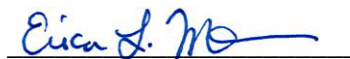
Cause of Action has both the intent and ability to make the results of this request available to a reasonably broad public audience through various media. Cause of Action’s staff has a wealth of experience and expertise in government oversight, investigative reporting, and federal public interest litigation. 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. Further, Cause of Action, a nonprofit organization under section 501(c)(3) of the Internal Revenue Code, does not have a commercial interest in making this request. The requested information will be used to educate the general public about information collection by Treasury and BFS at tfm.fiscal.treasury.gov.

Record Production and Contact Information

In an effort to facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If readily reproducible, the production should consist of load files that are compatible with Concordance® Evolution. If a certain portion of responsive records can be produced more readily, Cause of Action requests that those records be produced first and that the remaining records be produced on a rolling basis as circumstances permit.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires. If you have any questions about this request, please contact me at erica.marshall@causeofaction.org or by telephone at (202) 803-6068. Thank you for your attention to this matter.

Best Regards,



ERICA L. MARSHALL
COUNSEL
CAUSE OF ACTION

Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep’t of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep’t of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep’t of Educ. (Jan. 20, 2012).

⁸ 5 U.S.C. § 552(a)(4)(A)(iii).

⁹ *Id.*