



Transactional Records Access Clearinghouse
Syracuse University

February 2, 2005

OPM FOIA Officer
U.S. Office of Personnel Management
Room 5415
Washington, DC 200415-7900

RE: FOIA request concerning OPM Review of Its Employee Disclosure Policy

Dear Sir or Madam:

On October 8, 2004, the Transactional Records Access Clearinghouse (TRAC) submitted a request to Ron Byers, Team Leader, Workforce Information and Planning Group, for an electronic copy of the most recent quarterly Central Personnel Data File. Six weeks later, in a November 23, 2004 letter to TRAC, Gary A. Lukowski, Manager, Workforce Information & Planning Group, Center for Workforce Planning and Policy Analysis, replied. In his letter, Mr. Lukowski indicated that the office's periodic and long-standing provision of these files under the Freedom of Information Act had been halted, pending a review by OPM "of the policy on disclosure of individual employees records as this relates to the Freedom of Information Act, and the Privacy Act."

As you know, public access to the names, salaries and work stations of almost all federal employees has been an essential aspect of America's system of representative democracy since the first years in our history. For this reason, we wish to express our deep concerns about (1) the delay in obtaining this data and (2) the possible decisions that ultimately may result from OPM's review.

Our worries are rooted in the fundamental truth that *secret governors* are incompatible with the functioning of a *free government*. Put simply: responsible accountability of *government* is just not possible without public access to the names, work stations, and other information about most of the *government employees* who carry out the day-to-day actions of the *government*.

Because of our profound belief in the critical importance of this feature of our system of representative democracy we request, under the provisions of the FOIA, all documents, reports and memos relating to the purpose, scope and production schedule of the policy review mentioned in Mr. Lukowski's letter. In addition, we request the names and titles of staff members directly involved in the study.

We are sure there is no need to remind you that United States tradition regarding this aspect of accountability goes back for almost two centuries, at least to April 27, 1816, when Congress approved a resolution authorizing the regular publication of the *Official Register of the United States*. This list, the resolution declared, "shall exhibit the amount of compensation, pay and emoluments allowed to each officer, agent, clerk, cadet, midshipmen, the state and county where he was born and where employed."

The first report published under this authorization was 88 pages long (see attachment). At the head of the list of federal employees was James Madison, the fourth president of the United States, whose pay was listed as \$25,000. Also on the first page of the first report was James Monroe who as the secretary of state was paid \$5,000.

Since 1816 the public's right to this basic information has been a cornerstone of federal accountability to the American taxpayer. While changes in technology over the years have affected the form in which this information has been made available, the fundamental rule has not changed: basic information about federal employees must always remain public. The Central Personnel Data File (CPDF) -- a series which itself has been regularly updated and made available for at least thirty years -- is simply the current inheritor of this mantle of public responsibility of providing access.

As President Bush so eloquently emphasized in his inaugural address several weeks ago, the United States across the generations has proclaimed "the imperative of self government because no one is fit to be master and no one deserves to be slave. Advancing these ideals is the mission that created our nation." Congress' authorization of the Official Register of the United States in 1816 was one essential element in assuring that the dream of freedom and representative democracy was realized. This aspect of the dream has of course survived in our law and the requirement, under the code of Federal Regulations (5 CFR 293.311), that the names, occupations, salaries, and work places of most federal employees remain a part of the public record.

We wish to remind you that since 1989 TRAC has been providing the American people -- and institutions of oversight like reporters, public interest groups, Congress, universities and others -- with the information they need to judge the performance of their government. Included in TRAC's coverage is authoritative and very detailed material about most federal civilian employees, federal enforcement activities, federal tax collection efforts, federal spending, etc. The vast scope of this information, largely obtained under the FOIA, means that TRAC has been cited as a data source by the White House news secretary, the IRS Oversight Board, the Government Accountability Office and in numerous congressional reports and official letters of inquiry. In addition, of course, dozens of public interest groups ranging from the National Rifle Association to Human Rights Watch and many thousands of news articles have referenced TRAC. Another interesting category of user who has found value in TRAC's organized data are a number of executive branch and court agencies. As a result, TRAC has in fact played a crucial role in numerous important public debates about a wide range of important national policy issues.

Accordingly, with respect to this request, we further ask: (a) to be classified as "an educational and noncommercial scientific institution, whose purpose is scholarly and scientific research" and as "a representative of the news media" under the provision of the Freedom of Information Act of 1986; and (b) for a full waiver of fees. In connection with prior requests for other information from the OPM we have furnished the agency with a detailed factual basis underlying this classification and fee waiver request in our May 10, 1999 letter for the FY98 and March 30, 1999 CPDF files. We trust this information is sufficient for your purposes since you granted us a full (100%) fee waiver on that basis. Should you require any addition information, please let us know. Thank you.

Sincerely yours,



Susan B. Long Co-Director, TRAC and

Associate Professor

Management Information and Decision Sciences

School of Management



David Burnham Co-Director, TRAC and

Associate Research Professor

S.I. Newhouse School of Public Communications

Enclosures:

1. Susan Long's October 8, 2004 letter to OPM
2. Gary Lukowski's November 23, 2004 response
3. April 27, 1816 Resolution of Congress authorizing the Register
4. Excerpts from the Register

cc: Gary Lukowski