NATIONAL SCIENCE FOUNDATION
4201 Wilson Boulevard
ARLINGTON, VIRGINIA 22230

OFFICE OF THE
GENERAL COUNSEL

Case #10-383F

October 1, 2010

Jean Carter-Johnson
FOIA/PA Officer
Room 10641, SSMC-3
1315 East West Highway
Silver Spring, MD 20910-3281

Dear Ms. Carter-Johnson:

The National Science Foundation (NSF) has received a Freedom of Information Act (FOIA) request for records that concern funding for rapid grants to investigate the April 20, 2010 BP Macondo oil spill. A copy of the request is enclosed as Tab A.

During NSF's processing of this request we located records of interest to your organization. I have enclosed emails (80 pages) (Tab B) that contains equities of interest to your organization. Please review the enclosed emails and provide me with your recommendation for release and/or withholdings. If you wish to have portions of the records withheld please mark the documents with the appropriate FOIA Exemption(s) and provide me with your organization's appeal instructions.

I am available by email: ljensen@nsf.gov and/or telephone: (703) 292-5065 to consult with you concerning this referral and consultation.

Sincerely,

Leslie A. Jensen

Leslie A. Jensen
FOIA/Privacy Act Officer

Enclosures

Jensen, Leslie A.

From:	Borenstein, Seth [SBorenstein@ap.org]
Sent:	Friday, September 03, 2010 3:02 PM
To:	NSF FOIA
Cc:	Topousis, Dana; Nesbit, Jeffrey A
Subject:	Freedom of Infromation Act request by The Associated Press; attached and pasted below; please acknowledge receipt
Attachments:	NSF-FOIA.doc

Seth Borenstein
Science Writer
The Associated Press
1100 13th St. N.W., Suite 700
Washington, DC 20005-4076
sborenstein@ap.org
202-641-9454

National Science Foundation
FOIA Officer (Rm 1265)
4201 Wilson Blvd
Arlington, VA 22230

Sept. 3, 2010

Dear FOIA officer,

It's Seth Borenstein, national science writer for the Associated Press, the worldwide wire service. Pursuant to the federal Freedom of Information Act, 5 U.S.C. 552, I request access to and copies of the following materials:

- All correspondence, slide shows, e-mails, meeting and phone notes and logs, between Dr. David Conover and officials from other federal agencies and officials about funding for rapid grants to investigate the Apr. 20, 2010 BP Macondo oil spill.
- All correspondence, e-mails, meeting and phone notes and logs, between the Office of Legislative and Public Affairs and other federal agencies and officials about coordination efforts of federal grants and the meetings Aug. 31, Sept. 1 and Sept. 2 in Florida, Mississippi, and Louisiana. This should include all documents about media strategy, interview requests, denial of interview requests, instructions on which media should be talked to and which should be denied.

As a news media representative I am only required to pay for the direct cost of duplication after the first 100 pages. As a news media representative, I ask you to please waive any applicable fees. In the following eight paragraphs I will underscore my reasons in response to your guidelines on fee requests. I understand that is a separate process than my FOIA request. So I ask that you initiate both processes simultaneously. In other words, please start processing the FOIA request itself as you are doing the fee-waiver request. In the event that you disallow my fee-waiver request, I pledge to pay the price of the FOIA request up to $200. Please notify me upon passing the $100 and $150 thresholds and reaching the $200 limit if this is before a decision on fee-waiver request of if my fee-waiver is denied, however unwarranted that event may be. This paragraph should serve to authorize you to begin to accrue such charges, pending a decision on the fee-waiver request.

Through this FOIA request I am gathering vital information on the activities of the taxpayer-funded EPA that is important to the public's understanding of how its federal science funding agency spends public money and whether it is doing so in compliance with federal laws.

Now, let me specifically address the six hurdles used by the FOIA for fee-waiver determination by the U.S. Environmental Protection Agency and other federal agencies.

The subject matter of the requested records must specifically concern identifiable operations or activities of the government. This is about how federal tax dollars are spent and how taxpayer-funded officials communicate with the public about these decisions.

2. The disclosure should be "likely to contribute" to an understanding of government operations or activities. This is obvious. It's about public spending.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the requester or a narrow segment of interested persons. Once again, this is about millions of dollars of federal money.

4. The disclosure must contribute "significantly" to the public understanding of government operations. See the first three. This is about federal funding, taxpayer-funded communications strategy.

5. The disclosure will not serve any commercial interest of me as an individual. My company does not sell newspapers individually. My company, The Associated Press, is a not-for-profit wire service (see the .org at the end of my e-mail) that is a consortium of members. Even the AP members will not likely sell a single newspaper more because of the disclosure. This is just a matter of a not-for-profit wire service fulfilling its public duty to ferret out the truth about the way government operates. In fact, the entire process will likely cost my company money because it involves my time.

6. The public interest in disclosure far outweighs commercial interest. First, as shown above there is massive amount of public interest. Second, as shown above, there is little if any commercial interest.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the Act a all segregable portions of otherwise exempt material. I reserve the right to appeal.

As I am making this information as a daily journalist and this information is of timely value, please contact me by telephone, rather than by mail if you have questions regarding this request. My phone number is 202-641-9454. My e - mail is sborenstein@ap.org. I look forward to your reply within 20 business days, as the statute requires.

Thank you in advance for your assistance.

Sincerely,

[signed]
Seth Borenstein
Science Writer
The Associated Press

Seth Borenstein
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Washington, DC 20005-4076
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dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify The Associated Press immediately by telephone at +1-212-621-1898 and delete this e-mail. Thank you.
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