



# United States Department of the Interior

FISH AND WILDLIFE SERVICE  
Washington, D.C. 20240



October 31, 2011

This responds to your August 18, 2011 Freedom of Information Act (FOIA) request for:

*"internal agency (FWS) memos or other correspondence or documents that review or discuss the merits and/or disadvantages of iPads and/or similar pad/tablet computer devices for employee use during Calendar Year 2011."*

Enclosed is the information found as a result of the searches conducted for your request. This is the Fish and Wildlife Service's (FWS) final response to your request. All information within the scope of your request has been provided as appropriate under the FOIA (5 U.S.C. 552). One document is withheld in full, and certain information is withheld in part in accordance with exemption (b)(5); certain other information within these documents is being withheld in accordance with exemption (b)(6); and other information within these documents is being withheld in accordance with exemption (b)(7) of the FOIA.

Exemption 5 protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. In this instance the documents in question meet the criteria of intra-agency documents. Regarding this information we invoke the deliberative process privilege which has as its purpose to prevent injury to the quality of agency decisions. Specifically, there are three criteria for invoking this privilege, (1) to encourage open, frank discussions (2) to protect against the premature disclosure of information before it is finally adopted; and (3) to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency action. The courts have determined that Exemption 5 protection can be available to a draft document regardless of whether it differs from its final version, see Mobil Oil Corp. v. EPA, 879 F.2d 698, 703 (9<sup>th</sup> Cir 1989) (dicta). In this instance the material that has been withheld meets the three criteria stated above. We are providing the cover sheet of the document withheld in full that shows that it is a proposal only whose discussions have not been made public; and which could confuse the public regarding the agency's direction.

Exemption 6 protects information about individuals in "personnel and medical files and similar files" and allows an agency to withhold names, addresses and other information that might identify individuals when the disclosure of the information would constitute a clearly unwarranted invasion of personal privacy (In Def. of Animals v. HHS, No. 99-3024, 2001 WL 34871354 at \*4 (D.D.C. Sept 28, 2001). The exemption requires the bureau to balance the private interests related to non-disclosure against the public interest in disclosure (Associated Press v. DOD, 554 F.3d 274, 291 (2d Cir. 2009). In this instance the material that has been withheld includes personal cell phone numbers and other personal privacy information. Because you have identified no public interest to be served by disclosure that would outweigh the private interest at stake, the FWS has determined that an exemption 6 withholding is appropriate in this instance.

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Exemption 7 protects records or information compiled for law enforcement purposes, in this instance to the extent that the production of those records would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions.

Purchasing and costs information was determined to be unrelated to the subject of your request, and therefore was not included.

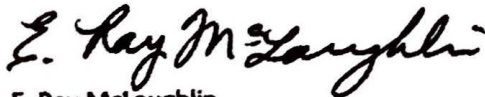
The decision to withhold/deny this information was made by Johnny R. Hunt, FWS FOIA Officer in consultation with Larry Mellinger, Attorney-Advisor, Office of the Solicitor, U.S. Department of the Interior.

You may appeal this determination under Section 2.28 – 2.30 of Title 43, *Code of Federal Regulations*. Your appeal must be in writing and received no later than 30 workdays from the date of final response or the date you receive records. In order to expedite action upon your appeal, you should clearly label both the envelope and the notice of appeal "Freedom of Information Act Appeal". The notice of appeal should be directed to:

FOIA Appeals Officer  
U.S. Department of the Interior  
1849 C Street, N.W.  
MS-6556-MIB  
Washington, D.C. 20240

In accordance with the Department's regulations, any fees associated with your request have been waived. If you have questions or need additional information, please contact us. We apologize for the delay in processing your request and appreciate your patience.

Thank you,



E. Ray McLaughlin  
Alternate FWS FOIA Officer  
U.S. Fish and Wildlife Service  
Division of Information Resources & Technology Mgmt  
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