



**Department of Energy**  
Richland Operations Office  
P.O. Box 550  
Richland, Washington 99352

December 21, 2015

Ms. Tammy Pressnell  
Banda Group International, LLC  
(address has been deleted)  
Oak Ridge, Tennessee 37830

Dear Ms. Pressnell:

**FREEDOM OF INFORMATION ACT REQUEST (FOI 2016-00148)**

This letter is in response to the electronic Freedom of Information Act (FOIA) request you submitted on October 26, 2015, to the U.S. Department of Energy (DOE) Headquarters FOIA Office. Your request has been forwarded to this office for a response and was received on November 4, 2015. In your request letter, you asked for:

“all proposals, contracts, amendments, and other documents relating to the contract provided below:

Northwind Solutions IGF::OT::IGF Base – The purpose of this contract is to provide technical, environmental, and program management support services – SBA Reference #1087-14-407582 Energy North Wind Solutions, LLC DEEM0003399 Time and Materials Professional Services.”

In an electronic mail message dated November 9, 2015, you clarified your request and stated you were seeking copies of the proposal submitted by NORTH WIND SOLUTIONS, LLC, the previous Request for Proposal, amendments to the awarded contract, current contract, lessons learned, corrective actions or incident reports relating to the contract.

Under the provisions of the FOIA, documents held in government files will be disclosed to the public upon request, with nine specific exemptions. One of those, Exemption 3, incorporates into the FOIA other laws that restrict the availability of information. To qualify under this exemption, a statute must require that information be withheld in such a manner as to leave no discretion to the agency. Under 41 U.S.C. § 253b(m)(1) (currently at 41 U.S.C. § 4702) proposals may not be made available to any person unless the proposal is set forth or incorporated in a contract entered into between the agency and the contractor that submitted the proposal. Since this proposal was not set forth nor incorporated by reference into the contract, your request for this must be denied.

Enclosed are copies of the Request for Proposal (RFP), modifications 0001 through 0015, and a copy of the current contract.

As provided in 10 CFR 1004.11(c), NORTH WIND SOLUTIONS, LLC, was given the opportunity to identify those parts of the requested information that should be protected from disclosure under the FOIA and to provide the basis for any such claim. The specific labor rates for FY 2015-2018 located in Section B of the enclosed contract have been deleted pursuant to Exemption 4 of the FOIA.

Exemption 4 of the FOIA protects the disclosure of confidential business information. If the documents you are requesting were released in their entirety, your company could gain insight into NORTH WIND SOLUTIONS' pricing strategies which are unique to them and have been developed at their expense. The result of such a release would place them at a competitive disadvantage by giving their competitors insight into how they do business.

In interpreting the FOIA, courts have held that information may be withheld if disclosure would be likely to impair the government's ability to obtain similar information in the future. If specific pricing information and trade secrets were released to competitors, it would clearly impair the government's ability to obtain the most favorable terms in future procurements because companies would be less willing to risk disclosure of their information. The RFP and modification are being provided to you without deletions.

We conducted a thorough search and no lessons learned, corrective actions or incident reports relating to the contract were located. This search was conducted by those within the agency who are most familiar with the subject matter of your request, in locations where responsive documents may be found.

This satisfies the standard set forth by the United States Attorney General by Memorandum dated March 19, 2009, that the agency is justified in not releasing material if it reasonably foresees that disclosure would harm an interest protected by one of the statutory exemptions or disclosure is prohibited by law. This also satisfies DOE's regulation at Title 10, Code of Federal Regulations (CFR), Section 1004.1, to make records available which it is authorized to withhold under 5 U.S.C. 552 when it determines that such disclosure is in the public interest. Accordingly, we will not make a discretionary disclosure of this information.

The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8. Your appeal shall be filed within 30 days after receipt of this letter. You may submit your appeal by e-mail to [OHA\\_filings@hq.doe.gov](mailto:OHA_filings@hq.doe.gov), including the phrase "Freedom of Information Appeal" in the subject line. Alternatively, any such appeal may be made in writing to the following address:

U.S. Department of Energy  
Director, Office of Hearings and Appeals (HG-1)  
L'Enfant Plaza Building  
1000 Independence Avenue SW  
Washington, D.C. 20585-1615

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Costs incurred for this response is as follows:

Reproduction – 147 pages @ \$.05/page	\$	7.35
Review time – 1 hour @ \$47.16/hour		<u>47.16</u>
Total	\$	54.51

Your check of \$54.51 should be made payable to the U.S. Department of Energy and forwarded to my attention at P.O. Box 550, Richland, Washington, 99352.

If you have any questions regarding your request, please contact me at our address above or (509) 376-6288.

Sincerely,

-Original Signed By-

Dorothy Riehle  
Freedom of Information Act Officer  
Office of Communications  
and External Affairs

OCE:DCR

Enclosures