



November 6, 2017

Patrick Lacefield, Director
Montgomery County Office of Public Information
101 Monroe Street, 4th Floor
Rockville, MD 20850

Dear Mr. Lacefield,

This is a public information request on behalf of the American Civil Liberties Union Foundation of Maryland, pursuant to the Maryland Public Information Act (MPIA), Md. Code, Gen. Prov. §§ 4-101 et seq. This request relates to the proposal that Montgomery County and the State of Maryland jointly submitted in response to Amazon's Request for Proposals (RFP) seeking submissions from Metropolitan Statistical Areas regarding the site for Amazon's second headquarters. *See* https://images-na.ssl-images-amazon.com/images/G/01/Anything/test/images/usa/RFP_3_V516043504.pdf.

We seek a complete copy of the electronic version of the Proposal that Amazon required all respondents to submit, including, but not limited to, the written responses to the RFP questions.

We understand from published press reports that Montgomery County has refused to make any details about its proposal, including even what sites are being proposed, public, based on claims that "Amazon has asked that the proposals be confidential." A. Metcalf, *Montgomery County Won't Detail Potential Sites in Amazon Bid Before Submission*, Bethesda Magazine, Oct. 16, 2017, <http://www.bethesdamagazine.com/Bethesda-Beat/2017/Montgomery-County-Wont-Detail-Potential-Sites-in-Amazon-Bid-Before-Submission/>. Even if it were true that Amazon had asked that the proposals be kept confidential, such a request would have no bearing on whether anything in the proposal, which contains no non-public information from or about Amazon, contains any confidential information that can be shielded from disclosure under the MPIA. And we note that other jurisdictions have made their proposals public, undermining any claim that the proposals must be kept confidential. <https://amazon.boston.gov/>. Moreover the fact that the RFP requests that proposals be labeled confidential could mean only that Amazon wanted that label for its own mail routing, given that the RFP itself expressly states that it is only "aspects of the Project [not the proposal] and details regarding the company" that are confidential, and that a confidentiality and non-disclosure agreement will be delivered at a later stage in the process.

We anticipate that we will want copies of some or all of the records sought. Pursuant to Md. Code, Gen. Prov. § 4-206(e), we request that all fees related to this request be waived. The American Civil Liberties Union Foundation of Maryland is a non-profit 501(c)(3) organization. We request this information in furtherance of the ACLU's longstanding commitment to open and transparent government, and to inform the public regarding the public subsidies that have been offered as part of the proposal. This request meets the criteria for a fee waiver under MPIA, and fees associated with similar requests are regularly waived for the ACLU. In addition, the ACLU has a limited ability to pay for the copying and other charges associated with MPIA requests. *See generally* Office of the Attorney General, *Maryland Public Information Act Manual*, 7-3 - 7-4

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(14th ed. 2015) (discussing criteria for waiver of fees under the MPIA). If the request for a waiver of fee is denied, please advise us in writing of the reason(s) for the denial and of the cost, if any, for obtaining a copy of the requested documents.

If you determine that some portions of the requested records are exempt from disclosure, we will expect, as the Act provides in Md. Code, Gen. Prov. § 4-203(c)(1)(ii), that you provide us with any portion of the records that are subject to inspection. If all or any part of this request is denied, please provide us with (1) the reasons for the denial, (2) the legal authority for the denial, (3) a brief description of the record that will enable the us to assess the applicability of the legal authority for the denial, and (4) notice of the available remedies. Md. Code, Gen. Prov. § 4-203(c)(1)(i).

It is essential that this request be fulfilled within 30 days, as required by Md. Code, Gen. Prov. § 4-203(a). Further, if you anticipate that it will take more than 10 days to produce the records, we expect a response within 10 days addressing (1) the amount of time that you anticipate it will take to produce the record, (2) an estimate of the range of fees that may be charged to comply with the request; and (3) the reason for the delay. Md. Code, Gen. Prov. § 4-203(b)(2). If we do not receive notice within the required time period, we will treat your failure to respond as a denial and seek appropriate relief.

Thank you for your time and attention to this matter, and we look forward to receiving your response. Please feel free to contact us with any questions or concerns.

Sincerely,

David Rocah
Senior Staff Attorney