

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
MAYOR'S OFFICE OF LEGAL COUNSEL
Freedom of Information Act Appeal: 2020-090**

July 16, 2020

VIA ELECTRONIC MAIL

Mr. Michael Ayele

RE: FOIA Appeal 2020-090

Dear Mr. Ayele:

This letter responds to the administrative appeal you submitted to the Mayor under the District of Columbia Freedom of Information Act, D.C. Code § 2-537 (“DC FOIA”), challenging the failure of the Office of Contracting and Procurement (“OCP”) to respond to your FOIA request.

On January 28, 2019, you submitted a FOIA request to OCP. OCP responded to your FOIA request indicating that it did not have any responsive records. On January 30, 2020, you filed an appeal with this Office. In your appeal, you requested that OCP provide responsive information to the questions you directed to OCP. On February 5, 2020, OCP responded to your appeal.¹ In its response, OCP indicates that your FOIA request did not specifically request documents. Instead you provided a 14 page document titled “Decade in Review”. The document chronicles different events in your life. However, the document does not seek any type of documents. And, in the narrative portion of the FOIA request, you direct a number of questions to OCP. However, there was one topic for which OCP thought you were requesting documents and that inquiry related to a procurement statute. You asked “[w]ho are the people who have within the system of DC. Gov invoked PITA & PPRA?” OCP conducted a search of the agency’s data systems for this information and was not able to locate any responsive records. OCP also informed you that it does not compile any statistics of individuals who invoke District procurement law. We note that your request for information on the persons who had invoked the District’s procurement law was not a request for documents.

FOIA requires that requests describe the records sought with sufficient detail to allow an agency employee familiar with the subject area of the request to locate the records within a reasonable amount of time. More specifically, 1 DCMR § 402.4 states that:

A request shall reasonably describe the desired record(s). Where possible, the specific information regarding names, places, events, subjects, dates, files, titles, file designation or other identifying information shall be supplied.

In addition, under FOIA, an agency “has no duty either to answer questions unrelated to

¹ A copy of OCP’s response to your appeal is attached to this decision.

document requests or to create documents.” *Zemansky v. United States Environmental Protection Agency*, 767 F.2d 569, 574 (9th Cir. 1985). The law only requires the disclosure of nonexempt documents, not answers to interrogatories. *Di Viaio v. Kelley*, 571 F.2d 538, 542-543 (10th Cir. 1978). “FOIA creates only a right of access to records, not a right to personal services.” *Hudgins v. IRS*, 620 F. Supp. 19, 21 (D.D.C. 1985). *See also Brown v. F.B.I.*, 675 F. Supp. 2d 122, 129-130 (D.D.C. 2009).

We have reviewed both your FOIA request and the appeal which asked a different set of questions to OCP. We conclude that you did not ask for documents, although OCP in good faith conducted a search for documents for one topic it interpreted as possibly asking for documents. We therefore conclude that the OCP properly responded to your FOIA request and we hereby deny your appeal.

This constitutes the final decision of this Office. If you are dissatisfied with this decision, you may commence a civil action against the District of Columbia in the Superior Court of the District of Columbia in accordance with D.C. Code § 2-537.

Respectfully,

Mayor’s Office of Legal Counsel

cc: D. Ryan Koslosky, Associate General Counsel
OCP (via email)