



OFFICE OF
THE DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

SEP 16 1986

REFER TO

ATF #860523
Your #0024-ATF-001

Christian D. Wallace, Senior Analyst
The National Security Archive
1755 Mass. Ave. N.W., Suite 500
Washington DC 20036

Dear Mr. Wallace:

This is in response to your Freedom of Information Act request, dated August 15, 1986, for copies of records maintained by the Bureau of Alcohol, Tobacco and Firearms about Thomas V. Posey. Also, you requested a fee waiver because the waiver would primarily benefit the general public.

Your request for access is granted in part. Enclosed are 15 pages of records retrieved as a result of your request. Some information has been deleted from these 15 pages. The specific exemptions cited are identified on the documents released. Access to page number 16 is denied entirely because it is information obtained from a confidential source. Page number 17 is a document originating at another federal agency and we have referred the document to the agency for direct response to you.

Enclosed is our invoice for \$12.25 covering one hour search time and copy cost for the 15 pages released. Your request for a fee waiver is denied at this time because I feel that your organization, notwithstanding your tax exempt status, is primarily a commercial enterprise. I arrived at this conclusion based on information about your organization available to me at this time, i.e., your letter and the FOIA Update article. I will of course reconsider your request for a fee waiver if you provide additional information that shows my initial conclusion is erroneous.

I concluded that your ability to disseminate information is limited and not of primary benefit to the general public. To the extent that you provide access and copies to anyone, the public will benefit. However, the benefit is limited and can only be obtained by members of the public living within commuting distance or those who have the resources to travel to your Washington, D.C. office. If we consider travel, lodging and the cost of meals, even those who have resources must pay to gain access to records maintained at your archive.

~~SEP 17 1986~~

SEP 18 1986

The fact that members of the general public must pay to obtain benefit from your archive is a factor in determining if the public is the primary beneficiary of a waiver to you. The obligatory cost to the public is a major factor, since any record you obtain under the FOIA would be obtainable by any other FOIA requester regardless of geographical location, including those eligible for a fee waiver. If your organization collected government records and made such records available to anyone at a cost below the cost the government would charge for the identical service, then the primary beneficiary could well be the general public. However, if it costs the public more to obtain information from your archive than from the government, then the general public may not be the primary beneficiary, at least not in a fiscal sense.

I understand that direct cost correlation may not be completely valid because your organization will perform an intermediary service, that of indexing all records from all government agencies by subject matter. This clearinghouse operation probably could benefit scholars, historians, media members and ultimately the general public because of the accessibility of "all the information" on specific topics. However, there are a number of dangers associated with this clearinghouse concept, dangers that ultimately could be harmful to the general public. Under current law your organization could, by virtue of FOIA waivers, become an unregulated, monopolistic information czar for the entire federal government. Additionally, I understand your organization hopes to be self sufficient. Accordingly, what you charge for your service and the redissemination of information is very much a factor in determining whether the general public ultimately will be the primary beneficiary of a waiver to you. Consequently, I would need to know the anticipated size of your market (customer-subscribers), the cost of subscription(s), what constitutes a document set, and how much you will charge for document sets. Also, I would need some information on your projected operational budget, e.g., anticipated income, percentage of income allocated to salaries, equipment and advertising, expense account items, etc.

Finally, a few procedural matters should be cleared up in regard to the last two paragraphs of your letter. First, copy fees will be charged whether or not you elect to obtain copies after inspection--if the documents inspected have to be redacted. Second, our invoices are due when rendered. Failure to pay an outstanding invoice will preclude us from processing additional requests. Third, to the extent possible we will honor your request to process your requests in portions; however, circumstances may prohibit such processing and result in a single release after all records have been assembled.

Insofar as your request has been denied (re information withheld and fee waiver), you may submit a request for an administrative appeal by following the procedure outlined on the enclosed "Document Cover Sheet." In regard to the fee waiver denial, you may in lieu of submitting an appeal provide the additional information requested. I will then reconsider the initial fee waiver denial. If you have any questions call me at (202) 566-7118 or write again.

Sincerely yours,



Bob Pritchett
Chief, Disclosure Branch