



U.S. Department
of Transportation
**Federal Aviation
Administration**

Eastern Region
Air Traffic Division

1 Aviation Plaza
Jamaica, NY 11434

AF-2004

Mr. William Puckett
2011 108th Avenue SE
Bellevue, WA 98004

Dear Mr. Puckett:

This is in response to email request received February 19, 2004, (Copy enclosed), wherein you request information under the Freedom of Information Act (FOIA).

Listed below are enclosed copies of all releasable documents in our files relative to your request.

Additionally, we have redacted a log entry on the Washington National Tower, that is protected under **Exemption 2 (High)**, of the FOIA exempts from mandatory release records that are "related solely to the internal personnel practices and rules of an agency." 5 U.S.C. §552(b)(2). Courts have interpreted Exemption 2 to include two categories: (1) internal matters of a relatively trivial nature, and (2) more substantial internal matters, the disclosure of which would risk circumvention of a legal requirement. An internal document is one that "does not purport to regulate activities among members of the public...and does not set standards to be followed by agency personnel in deciding whether to proceed against or take action affecting members of the public." *Cox v. United States Department of Justice*, 601 F.2d 1,5 (D.C. Cir. 1979). The test in determining whether Exemption 2 protects an internal document under this analysis is not whether there is a public interest in disclosure, but rather whether a FOIA disclosure would "benefit those attempting to violate the law and avoid detection." *Crooker v Bureau of Alcohol, Tobacco & Firearms*, 670 F.2d 1051, 1054 (D.C. Cir. 1981) (en banc). The protection afforded to this kind of agency material has been extended to include items that related to civil regulatory matters and general legal requirements. *National Treasury Employees Union v. U.S. Customs Service*, 802 F.2d 525, 528-29 (D.C. Cir. 1986). In addition, Exemption 2 may be applied to prevent potential circumvention through a "mosaic" approach. For example, information that by itself would not reveal sensitive information may be protected to prevent harm that could be caused by the assembly of different pieces of similar information by a requester. See, e.g., *Accuracy in Media*, No. 97-2107, slip op. At 5 (D.D.C. Mar.31, 1999). Lastly, it is important to note that we must consider the general principal of

processing FOIA requests that a release to one person constitutes a release to every person in the world.

This information is protected by "High Exemption 2" because it is sensitive, critical information about the infrastructure of the national airspace system. This information sets the procedures that agency personnel use and does not establish rules or standards to be followed by persons using the national airspace system. Further, this information could be misused by persons intending to circumvent the regulatory requirements for using the national airspace system, and, thereby, harm the safety and security of the national airspace system or threaten public safety, or both.

The material being requested is listed below:

1. Washington Dulles ATCT—Includes:
 - Copy of Daily Record of Facility Operation—Printed format
2. Washington Reagan National ATCT—Includes:
 - Copy of Daily Record of Facility Operation—Printed format

Since the duplication cost was less than \$10.00, all fees have been waived.

Duplication—Two (2) pages at .10 per page	= \$0.20
Total	= NO CHARGE

The undersigned, along with Loretta E. Alkalay, Regional Counsel, and *Richard J. Ducharme, Manager of the Air Traffic Division*, participated in the decision to deny a portion of your request. You may request reconsideration of the determination not to disclose the aforementioned information by writing to:

Assistant Administrator for Region and Center Operations, ARC-1
 Aviation Administration
 800 Independence Avenue, S. W.
 Washington, DC 20591

This application for reconsideration must be made in writing within thirty (30) days from the date of receipt of this denial and must include all information and arguments relied upon and indicate that it is an appeal from a denial of request made under the FOIA. The envelope in which the application is sent must be marked "**FOIA**."

This request has been assigned FOIA Control Number, **2004-3015-EA**. Please refer to this number in any future correspondence relating to this matter.