



**U.S. Department  
of Transportation**

**Federal Motor Carrier  
Safety Administration**

**1200 New Jersey Ave., SE  
Washington, DC 20590**

March 28, 2024

Hans Frank Bader  
Liberty Unyielding  
1236 N. Stafford Street  
Arlington, VA 22201  
Liberty Unyielding  
[hfb138@yahoo.com](mailto:hfb138@yahoo.com)

Re: FOIA FMCS-2023-01942

Dear Hans Bader:

This is in response to your Freedom of Information Act request dated February 8, 2023. Your request was received on February 7, 2023, and assigned tracking No. FMCS-2023-01942. You requested the following information:

“All communications (other than comments posted at Regulations.Gov) between March 1, 2022, and the date you process this request, about the constitutional implications of requiring commercial motor vehicles to install an electronic device that could wirelessly transmit identifying information to law enforcement, or that would wirelessly transmit identifying information to law enforcement on demand. That includes any communications between March 1, 2022, and the date you process this request, regarding whether the Fourth Amendment prohibits transmitting such information without a warrant, or without probable cause to believe a crime is being committed, or whether the required installation of a transponder constitutes a warrantless search in violation of the Fourth Amendment or a taking of private property in violation of the Fifth Amendment.”

This request was further clarified between yourself and the Agency in later communications that occurred between November 28, 2023, and December 1, 2023. As part of this clarification, both you and the Agency agreed to the use of certain search terms and search locations, to include program offices where these records would likely be found should such records exist.

Pursuant to the FOIA, 5 U.S.C. § 552, enclosed are the records we located responsive to your requests. We are providing a total of 491 pages, to include 8 pages released in full, 22 pages released in


part and 461 pages withheld in full. Information is being withheld in accordance with 5 U.S.C. § 552(b)(5), 49 CFR § 7.23(5), 5 U.S.C. § 552(b)(6), and 49 CFR § 7.23(6).

Exemption 5: Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency, is exempt from public disclosure. The three most frequently invoked privileges are the deliberative process privilege, attorney-client privilege, and the attorney work-product doctrine. Here, we invoke attorney-client privilege. This privilege concerns confidential communication between an attorney and his client relating to a legal matter for which the client has sought professional advice. The communication withheld providing legal advice from FMCSA's Office of Chief Counsel is protected under this exemption. We are also withholding information under the deliberative process privilege. The deliberative process privilege protects the decision-making process of government agencies where the exposure of that process would result in harm.

Exemption 6: Permits withholding of personnel and medical files and similar files where disclosure of the material would constitute a clearly unwarranted invasion of personal privacy. Specifically, we are withholding personal information on federal employees.

Because your request is currently the subject of litigation in *Bader Family Foundation v. Fed. Motor Carrier Safety Admin.*, Civ. A. No. 23-2588 (TNM) (D.D.C.), please contact Assistant United States Attorney Anna Walker at [anna.walker@usdoj.gov](mailto:anna.walker@usdoj.gov) should you have any questions or need additional information.

Sincerely,



Jennifer Weatherly  
FMCSA FOIA Officer

Enclosures