

April 30, 2009

VIA FAX (202) 501-2727

Sharon V. Lighton
General Services Administration
FOIA Requester Service Center (ACMC)
Room 3116
1800 F Street, N.W.
Washington, D.C. 20405

Re: Freedom of Information Act Request and Request for Expedited Processing

Dear Ms. Lighton,

This letter constitutes a request under the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, and is submitted on behalf of the Electronic Privacy Information Center ("EPIC"). EPIC seeks agency records concerning agreements between the General Services Administration ("GSA") and social networking companies and cloud computing firms that facilitate the collection of personal data on U.S. citizens.

Background

On March 25, 2009, *Federal Computer Week* reported that the GSA signed agreements with social networking and cloud computing service providers, including Flickr, YouTube, Vimeo and Blip.tv, that make it possible for federal government agencies to "use new-media tools."¹ The news report stated that "a coalition of agencies have been working with new-media providers for some time to develop terms of service for federal agencies." The article cited a GSA official as saying that some of the areas of concern involved liability limits, endorsements and freedom of information.

On April 10, 2009, *Federal Computer Week* further reported that the GSA signed an agreement with Facebook that allows federal agencies to use the social-networking Web site. However, the GSA official declined to provide details about the agreements reached with the social network service.² The news article stated that

¹ GSA signs agreements with Web 2.0 providers, Doug Beizer, *Federal Computer Week*, March 25, 2009 available at <http://fcw.com/articles/2009/03/25/web-gsa-agreement.aspx>

² GSA signs agreement with Facebook, Doug Beizer, *Federal Computer Week*, April 10, 2009, available at <http://fcw.com/articles/2009/04/10/web-facebook-gsa.aspx>

the GSA negotiated the agreement because service providers were reluctant to negotiate agreements with individual agencies.

Recently, Facebook announced that it exceeded 200 million users.³ Social Networking Web sites, such as Facebook, have become established forums for keeping in contact with old acquaintances and meeting new ones. Users can create their own Web page and post details about themselves: where they went to school, their favorite movie titles, and their relationship status. They can link to friends on the same site, whose photos, names, and perhaps a brief description, will also appear on the Web page.⁴

Social networking sites give users an easy way to share information about themselves. However, many users are quickly finding that the information they intend to share with their friends can all too easily find its way into the hands of the authorities, strangers, the press, and the public at large. For example, job recruiters are looking to these sites to evaluate applicants. Government access to the personal information of Facebook users raises even more far-reaching privacy concerns.

More needs to be known about the agreements reached by the GSA on behalf of federal agencies with social networking and cloud computing services, including the actual terms of the agreements, any legal opinions prepared by the agency (or in possession of the agency) that consider the impact of these agreements on privacy and open government, and any procedures developed by the agency concerning the deployment of these services.

Documents Requested

EPIC requests agency records in the possession of the GSA:

1. All agreements between federal agencies and social networking services, cloud computing services, and/or vendors of other similar services.
2. All records, including memoranda and legal opinions, concerning the application of the Privacy Act of 1974 and the Freedom of Information Act to social networking services, cloud computing services, and/or other similar services.
3. All instructions, policies and/or procedures concerning the collection, storage, transmission, and use of information about users of social networking or cloud computing services by federal agencies.

³ Facebook opens up vote on new terms of service, Steve Musil, CNET.com, April 16, 2009, available at http://news.cnet.com/8301-1023_3-10221676-93.html

⁴ Social Networking Privacy, EPIC, <http://epic.org/privacy/socialnet/default.html> (last visited April 20, 2009)

Request for Expedited Processing

This request warrants expedited processing because “a person primarily engaged in disseminating information” makes it and it pertains to a matter about which there is an “urgency to inform the public about an actual or alleged federal government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II) (2009); *Al-Fayed v. CIA*, 254 F.3d 300, 306 (D.C. Cir. 2001).

EPIC is “primarily engaged in disseminating information.” *American Civil Liberties Union v. Department of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004).

There is particular urgency for the public to obtain information about the privacy implications of the GSA’s negotiated agreements with social networking and cloud computing service providers because these agreements directly impact the privacy and open government rights of American citizens. The Department of State has deployed a Facebook page, with links to pictures hosted on Flickr.⁵ The page provides links to other State Department created web sites concerning foreign countries. Further, the Department’s Facebook page provides links back to the State Department Web site for questions to the agency, employment opportunities, and information directed at youth.

Moreover, EPIC has been asked to participate in an upcoming workshop, sponsored by the Department of Homeland Security, on “Government 2.0: Privacy and Best Practices.” The workshop will discuss the privacy issues posed by government use of social media. Ultimately, the agency is seeking to write policy on how federal government agencies should engage the public through social media. Access to the records in the possession of the Agency, sought by EPIC, are critical for this undertaking.⁶

⁵ US Department of State, Facebook, available at <http://www.facebook.com/home.php?#/pages/Washington-DC/US-Department-of-State/15877306073?sid=a425586a6076d137b01bd7bd4d65a694&ref=search>

⁶ Public Workshop: Government 2.0: Privacy and Best Practices, 74 Fed. Reg. 73, April 17, 2009, available at <http://edocket.access.gpo.gov/2009/E9-8868.htm>

Request for “News Media” Fee Status

EPIC is a “representative of the news media” for fee waiver purposes. *EPIC v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003). Based on our status as a “news media” requester, we are entitled to receive the requested records with only duplication fees assessed. Further, because disclosure of this information will “contribute significantly to public understanding of the operations or activities of the government,” any duplication fees should be waived.

Thank you for your consideration of this request. As provided in 5 U.S.C. § 552(a)(6)(E)(ii), I will anticipate your determination on our request for expedited processing within ten (10) calendar days.

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Enclosures