

April 17, 2018

Jill M. Matthews
Acting Inspector General
Tennessee Valley Authority
Office of the Inspector General
400 West Summit Hill Dr. ET 4C-K
Knoxville, TN 37902-1401

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843.225.2371

Dear Ms. Matthews,

On behalf of the Southern Alliance for Clean Energy (SACE) and its members, I am writing to request that the Tennessee Valley Authority (TVA) Office of Inspector General (OIG) expand its recent audit and open an investigation into the purchase and use of TVA aircraft. Although we appreciate OIG's March 28, 2018 Audit Report, *TVA Fixed Wing Aircraft*, we believe the audit was far too narrow in scope. By limiting the scope of OIG's findings, the audit failed to identify the full extent to which TVA may have engaged in fraud and/or waste and whether TVA has violated federal and corporate guidelines and requirements pertaining to the purchase and use of aircraft by federal agencies.

The March 2018 audit is limited to a 20-month period (July 21, 2015 to February 28, 2017) and only focuses on two aircraft (the 2015 Cessna Citation jet, tail number N560GJ and 2015 King Air turboprop, tail number N365PT) and their use by TVA executive staff and Board of Directors. We are requesting an expanded audit to include the purchase and use patterns of two additional aircraft: a luxury helicopter (N482AE) purchased in 2015 and a second Cessna Citation jet (N561PG) purchased in 2017.

Furthermore, we request that OIG open a formal investigation that includes all aircraft owned and operated by TVA from the start of 2013 to the present in order to determine whether CEO Bill Johnson, TVA executive staff, or TVA Board members may have engaged in fraud and/or abuse and whether any violation of federal or company statutes and/or policies occurred through their use of TVA aircraft. This would include an investigation of the use patterns of TVA's King Air turboprop N350KV from January 1, 2013 until it was sold in 2016.

SACE attempted to obtain information related to TVA's use of aircraft prior to the release of OIG's March 2018 report. In a February 12, 2018 Freedom of Information Act (FOIA) request, SACE requested any and all documents related to TVA's purchasing decisions and flight logs related to four aircraft: two Cessna Citation jets (N561PG and N560GJ), the 2015 King Air turboprop (N365PT), and a luxury helicopter (N482AE). On March 14, 2018, TVA responded to our FOIA request with a letter informing us that they would not be able to complete our request within the twenty-day time period. The reasons TVA gave for this failure were that they needed

to obtain records from multiple TVA office locations and that our request “involves confidential business information from an outside source.” Both SACE’s FOIA request and TVA’s response are attached to this letter.

Working with a partner organization, SACE has been able to obtain some information on the use of four TVA-owned aircraft via FOIA requests to the Federal Aviation Administration (FAA). These FAA documents included data for two King Air turboprops (N350KV and N365PT) spanning the period from January 2013 to August 2017 as well as data for two Cessna Citation jets (N561PG and N560GJ) spanning the period from July 2015 to February 2018. These FAA requests included the King Air turboprop N350KV as it was the primary aircraft used by TVA executives before the 2015 purchases. From our review of these records, it appears that TVA aircraft traveled to Raleigh-Durham International Airport (RDU), outside of TVA’s service territory, where Mr. Johnson has a second home, at least 31 times. It also appears that these aircraft flew to Oxford, Mississippi, home of TVA Board Chairman Richard Howorth, no less than 76 times. These trips to Oxford may represent additional occurrences of fraud and/or abuse, which deserve investigation by OIG. At the least, the Oxford trips are likely an inefficient use of TVA resources, which resulted in a significant number of flight legs where the aircraft empty of passengers.

As a federal agency, TVA’s refusal to release information to the public, its ratepayers, for the purchase and use of multi-million dollar aircraft is frustrating at best and disturbing at worst. TVA should be required to make flight logs and passenger lists transparent and available for review to the public. Given TVA’s refusal to make such information transparent up to this point, it is all the more imperative for OIG to expand its initial audit and open further investigations. In its investigative function, the OIG is tasked with “conducting investigations designed to promote economy, efficiency, and effectiveness, and to prevent and detect fraud, waste, and abuse¹” therefore it is OIG’s duty to do a full and thorough review of TVA’s actions in purchasing and using all of its aircraft beginning in 2013 to the present day.

Based on our preliminary research, we have serious concerns about abuse of power by TVA’s CEO, executive staff and Board of Directors and see clear signs of waste, and potential fraud.

We respectfully request a meeting with OIG to further discuss the information we have obtained via the FAA FOIA and our concerns with TVA’s purchase and use of luxury aircraft. We look forward to hearing back from you regarding our requests.

Respectfully submitted,



Stephen A. Smith, DVM
Executive Director
Southern Alliance for Clean Energy

¹ Inspector General Act of 1978, Section 4 – Duties and Responsibilities.

Denise Smith
Freedom of Information Officer
Tennessee Valley Authority
400 West Summit Hill Dr.
Knoxville, TN 37902-1401

VIA ELECTRONIC MAIL

Re: Freedom of Information Act Request: TVA Aircraft

Dear Ms. Smith,

The Southern Alliance for Clean Energy (SACE) is requesting the following documents from the Tennessee Valley Authority (TVA), under the Freedom of Information Act, 5 U.S.C. § 552, as amended, in electronic format wherever possible:

1. All documents, including but not limited to memoranda, meeting transcripts, purchase orders, electronic or written correspondence, budget reports, financial documents, meeting agendas, transactional documents and contracts related to TVA's decision to purchase the following items:
 - a. Textron Aviation Inc. Fixed Wing Multi-Engine aircraft (Serial number FL-999, FAA N-Number N365PT);
 - b. Eurocopter Deutschland GMBH Rotorcraft (Serial number 9588, FAA N-Number N4282AE)
 - c. Cessna Fixed Wing Multi-Engine aircraft (Serial number 560-6186, FAA N-Number N560GJ)
 - d. Textron Aviation Inc. Fixed Wing Multi-Engine (Serial number 560-6225, FAA N-Number N561PG)

This request includes any and all documents created by or relied upon by TVA Board members, TVA executive staff and TVA staff.

2. All flight records and other relevant documentation related to travel by TVA Board members, TVA staff members, TVA executive staff and/or non-TVA employees or non-TVA contractors aboard the following aircraft, including but not limited to the passenger logs of those traveling on these aircraft, documents outlining the purpose for each use of these aircraft and all financial documents, contracts and itineraries involving the use of these aircraft:
 - a. Textron Aviation Inc. Fixed Wing Multi-Engine aircraft (Serial number FL-999, FAA N-Number N365PT);
 - b. Eurocopter Deutschland GMBH Rotorcraft (Serial number 9588, FAA N-Number N4282AE)
 - c. Cessna Fixed Wing Multi-Engine aircraft (Serial number 560-6186, FAA N-Number N560GJ)

- d. Textron Aviation Inc. Fixed Wing Multi-Engine (Serial number 560-6225, FAA N-Number N561PG)

This request includes documents related to travel to states in which TVA supplies electricity or owns property, as well as documents or information related to any travel to states outside of those served by TVA (i.e. states other than Tennessee, North Carolina, Virginia, Georgia, Alabama, Mississippi, and Kentucky) as well as any travel outside of the United States.

For the purposes of this request, the term “documents” includes all written, printed, recorded or electronic: materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of TVA.

FOIA requires a responding agency to make a “determination” on any request within twenty (20) working days of receipt. *See* 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should TVA deny this request, TVA must inform SACE of the grounds for denial and the specific administrative appeal rights which are available. *See* 5 U.S.C. § 552(a)(6)(A)(i).

Request for Fee Waiver

This request meets the case-by-case requirements for a fee waiver under both FOIA and TVA regulations. Specifically, the Southern Alliance for Clean Energy is a non-profit, tax-exempt organization engaged in educating the public about energy and environmental issues, and the information delivered in response to this request will not be used for any commercial purpose, business, trade, or profit. The records requested are for a representative of a bona fide public interest group and there is current public interest in the subject matter to which the documents pertain. For these reasons, TVA should issue a fee waiver.

Should SACE’s request for reduced or waived fees be denied, I request you contact me before processing this request if the fee is expected to be in excess of \$100.00. SACE reserves its right to appeal a fee waiver or reduction denial.

Claims of Exemption from Disclosure

If you regard any documents as exempt from required disclosure under the Act, please exercise your discretion to disclose them nevertheless. In the alternative, after careful review for the purpose of determining whether any of the information is exempt from disclosure, please provide all reasonably non- exempt portions of records and communications, as required by FOIA.

We ask that you disclose this information as it becomes available to you without waiting until all of the records have been assembled. Should you elect to invoke an exemption to FOIA, please provide the required full or partial denial letter and sufficient information to appeal the denial. In accordance with the minimum requirements and regulations, this information should include:

1. Basic factual material, including the originator, date, length, and addresses of the withheld items.

2. Explanations and justifications for denial, including the identification of the exemption applicable to the withheld information or portions of the information found to be subject to exemption, and how each exemption applies to the withheld material.

If you have any questions regarding this request, please feel free to contact me at 901-827-3687 or angela@cleanenergy.org. I appreciate your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Angela Garrone". The signature is written in a cursive style and is positioned above a horizontal line.

Angela Garrone, Esq.
Energy Research Attorney
Southern Alliance for Clean Energy



Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902-1401

March 14, 2018

Ms. Angela Garrone, Esq.
Energy Research Attorney
Southern Alliance for Clean Energy
P.O. Box 1842
Knoxville, TN 37901

Dear Ms. Garrone:

This concerns your request under the Freedom of Information Act (FOIA) 5 U.S.C. § 552 dated February 12, 2018, and received in this office February 13, 2018. You requested purchase and related information for certain TVA aircraft and flight records from those aircraft. Your request has been assigned tracking number #5196.

We are unable to complete your request within 20 business days of its receipt due to the need to obtain and review records from TVA offices separate from this one. In addition, some of the information you request involves confidential business information from an outside source.

TVA's FOIA regulations (18 C.F. R. § 1301.8) require that TVA provide notice to submitters before the release of business information that may be confidential or competitively sensitive. FOIA exemption 4 protects confidential commercial and financial information the release of which is likely to cause substantial competitive harm to the person or company who submitted it. We sent notices to the submitters on February 26, 2018 regarding the contracts for the purchase of the aircraft.

In fairness to all our requesters, the FOIA requests which cannot be answered within 20 business days are placed in the multi-track system in accordance with TVA's FOIA regulations, 18 C.F.R. § 1301.5, and are generally answered in the order they are received within each track. Your request has been placed in Track 3. Track 3 is for the requests that are expected to take the longest time to process. The processing time will depend upon the number and complexity of the requests in Track 3 received before yours.

Ms. Angela Garrone, Esq.

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We welcome the opportunity to discuss ways your request could be modified in order to be processed more quickly. If you would like to discuss your request, you may contact me at (865) 632-6945. In addition, the Office of Government Information Services (OGIS) and TVA provide FOIA mediation services. Enclosed is contact information for those services.

Sincerely,

A handwritten signature in black ink that reads "Denise Smith". The signature is written in a cursive style with a large initial "D" and a long, sweeping tail on the "h".

Denise Smith
TVA FOIA Officer

Enclosure (OGIS & TVA FOIA Liaison contact information)