



ACLU OF MAINE FOUNDATION
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November 2, 2017

VIA ELECTRONIC AND CERTIFIED MAIL

Jon Jennings
City Manager, Portland, Maine
389 Congress St., Rm. 208
Portland, Maine 04101
jjj@portlandmaine.gov

Re: Request for Inspection and Copying of Public Records Pursuant to the Maine Freedom of Access Act, 1 M.R.S.A. § 408-A

Dear Mr. Jennings:

Please regard this letter as a request for inspection and copying of public records pursuant to 1 M.R.S.A. § 408-A filed on behalf of the American Civil Liberties Union of Maine Foundation.

Please be advised that, under § 402(3) of the Freedom of Access Act, the term “public record” is broadly defined as including:

any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, ...and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business....

1 M.R.S. § 402(3). It should be noted that the term “public record” includes, but is not limited to, electronic data stored on computers and electronic communications such as e-mail. Information “received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business...” includes, but is not limited to, information stored on the home computers of government officials and employees.

It has come to our attention that the City of Portland has recently voted to approve a project to purchase certain streetlights from Central Maine Power Co., with the intention of replacing them with a new lighting system. Randy Billings, *Portland, Maine, Approves Wi-Fi-Enabled Lighting Project*, WWW.GOVTECH.COM, available at <https://goo.gl/a2XJMZ> (Oct. 17, 2017). The new lighting system includes efficient LED lights and wireless Internet. *Id.* It also includes “other technologies” that could “monitor, control and analyze various aspects of daily life[.]” *Id.* We request public records related to the planned installation.

Specifically, we request disclosure of the following public records:

1. Records describing any and all technology that Portland plans to install as part of the new lighting system including, if applicable, any sound and video recording features;
2. Records describing any and all data that the new lighting system is designed to collect;
3. Records describing any Federal, state, or private grants being used to fund the new lighting system;
4. Records describing the company that sells the new lighting system; and
5. Records describing any and all potential law enforcement uses of the new lighting system.

Under Maine's Freedom of Access Act (FOAA), you have five (5) working days to acknowledge this request.


The requested records are not exempt from disclosure. If you deny all or any part of this request, please cite each specific applicable FOAA exemption and notify us of appeal procedures available under the law.

Pursuant to 1 M.R.S. § 408-A(11)(B), we are entitled to waiver of any fees because release of the requested records is in the public interest. In the words of the statute, release of the requested records is "likely to contribute significantly to public understanding of the operations of activities of government and is not primarily in the commercial interest of the requester." 1 M.R.S. § 408-A(11)(B). To the extent that fee-waiver is not granted, please provide a cost estimate pursuant to 1 M.R.S. § 408-A(9).

For public records stored on computer, please verify that records have not been deleted by confirming the results of searches against the computer back-up system currently in use. In addition, please be advised that destruction of public records contrary to the retention rules promulgated by the Maine State Archivist's Office is a Class E crime.

Thank you for your anticipated cooperation. We look forward to hearing from you as soon as possible.

Very truly yours,

A handwritten signature in cursive script that reads "Emma Bond". The letters are fluid and connected, with a prominent capital 'E' at the beginning.

Emma E. Bond
Staff Attorney