



FIRST AMENDMENT FOUNDATION

336 East College Avenue, Suite 101 Tallahassee, FL 32301

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03 August 2012

Mr. Bryan Koon, Director
Florida Division of Emergency Management
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

Dear Mr. Koon:

I am writing to express the First Amendment Foundation's serious concerns regarding the manner in which the Division of Emergency Management responded to a public record request submitted by Dara Kam, a reporter for the *Palm Beach Post*.

According to a string of emails between Ms. Kam and Jessica Sims, the Division's public information specialist, Ms. Kam made a verbal request for the metrics associated with the DEM's county typing project; on July 31, Ms. Kam restated her request and expanded it to also include records relating to the Division's analysis of the responses received from county emergency managers. I was included on the email string. Ms. Sims responded to the request on the same day, stating "We will reply to you in a timely manner." When Kam asked for clarification, she received an email from Ms. Sims on August 1, stating that Kam should contact Brian Burgess in the Governor's Office who "would be glad to discuss this" with Kam. To date, Ms. Kam has not received the records she has requested from DEM and when she was finally able to reach Mr. Burgess, she was told that her public record request was "not ready for prime time." Both the response of Ms. Sims and Mr. Burgess are inappropriate and simply not acceptable under Florida's public records law.

Section 119.07(1)(c), F.S., stipulates that a request to inspect a public record be acknowledged promptly and in good faith; section 119.07(1)(a) requires that an agency provide access to the records requested within a reasonable period of time. It is our position that the DEM has failed to comply with both cited sections of law in responding to Ms. Kam's public records requests – both the verbal request made in early July and the written request made on July 31.

In point of fact, on August 1 Kam obtained a copy of the survey from a county emergency manager who had received the record from Division on July 20; the same county manager told her that he had received his "grade" from DEM on July 31, the same day Ms. Kam made her written public record request for both the survey and records relating to DEM's analysis of the results. The records requested by Kam are clearly available, yet the Division has failed to lawfully respond to her public records request. As stated above, this is clearly unacceptable.

We ask that you review the constitutional and statutory requirements of the public records law with DEM staff, Mr. Koon, and ensure that division policies relating to providing access to public records are in compliance with chapter 119, F.S. If the Foundation can be of any assistance, please don't hesitate to contact me.

Sincerely,

Barbara A. Petersen

Barbara A. Petersen, President

Cc: Bonnie Hazleton, Director of Open Government, Executive Office of the Governor
Pat Gleason, Special Counsel for Open Government, Office of the Attorney General