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NOV 04 2008

RE: FDIC FOIA Log No. 08-0732

Dear [REDACTED]:

This is in response to your October 22, 2008, Email, in which you requested, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), "pdf files of any and all bids received by the FDIC for Washington Mutual between September 22nd and September 25, 2008." You stated that you had a copy of the bid submitted by JP Morgan Chase, National Association, and that you only wished to obtain "any other bank bids that were received by the FDIC during the aforementioned time period." You asked we "include the cover sheet of any bids received by the FDIC."

I have been advised by our Division of Resolutions and Receiverships that only one conforming bid was submitted to the FDIC for the purchase and assumption of Washington Mutual Bank; i.e., the bid submitted by JPMorgan Chase, National Association. Therefore, following a records search of appropriate files, we were unable to locate any information that was responsive to your FOIA request. If you choose to consider this response to be a denial of your request, you may appeal in accordance with the advice set forth below.

During our records search, we located a confidential correspondence that was submitted to the FDIC by another financial institution and which discussed the potential future submission of a non-conforming bid. Because this document is beyond the scope of your request, we have not undertaken a disclosure review of that document. However, we preliminarily have determined that that record likely may be exempt from disclosure pursuant to FOIA Exemptions 4 and/or 8, 5 U.S.C. § 552 (b)(4) and/or (b)(8).¹ Therefore, if you do submit a new FOIA request for that record, it likely may be denied.

FDIC's published regulations provide that a FOIA request shall contain "[a] statement agreeing to pay the applicable fees, or a statement identifying a maximum fee that is acceptable to the requester, or a request for a waiver or reduction of fees that satisfies paragraph (f)(1)(x) of this section[.]" 12 C.F.R. Part 309.5 (b)(2)(iii). In accordance with the FOIA, FDIC's FOIA regulations further provide, in pertinent part: "(f) Fees. (1) General rules. * * * (iv) Multiple requests seeking similar or related records from the same requester or group of requesters will be aggregated * * *. 12 C.F.R. § 309.5. FDIC's published FOIA regulations and FOIA Fee Schedule are available under the "Freedom of Information Act ("FOIA") Service Center" link at the FDIC's Web site, www.fdic.gov.

¹ FOIA Exemption 4 permits the withholding of trade secrets, and confidential or privileged commercial or financial information obtained from a person. FOIA Exemption 8 permits the withholding of information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

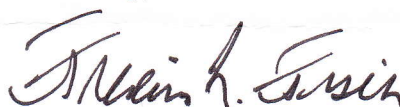
For fee purposes, your request *tentatively* was categorized to be for other than commercial use. You would, therefore, be entitled to two hours of free search time and to one hundred pages of free document duplication, but would be responsible for the payment of all other search and duplication costs, whether or not any responsive information was located and, if located, whether any information was released or withheld. Our records reflect, however, that we earlier opened three files in response to your earlier requests for similar or related records. Therefore, for fee purposes, your requests for similar or related records are being aggregated. Because search time has been or will be expended in connection with such requests, you no longer would be entitled to two hours of free search time. Similarly, if any documents have been or will be duplicated, you no longer would be entitled to one hundred pages of free duplication. Instead, you would be responsible for the payment of all direct, otherwise billable search and duplication costs.

You agreed to pay a maximum fee of \$5.00. Because fewer than 2.0 hours of search time thus far were expended and fewer than one hundred pages duplicated, this request has been processed at no cost to you. The FDIC's FOIA Fee Schedule expressly notes, however, that fees are not assessed if the costs are less than \$10.00. Therefore, a future request for similar or related records that includes a fee agreement of only \$5.00, will be interpreted to be for only whatever responsive information, if any, may be searched for, duplicated and disclosed to you at no cost.

You have the right to appeal this response to the FDIC's General Counsel within 30 business days following receipt of this letter. If you decide to appeal, please submit your appeal in writing to the General Counsel. Your appeal should be addressed to the FOIA/PA Group, Legal Division, FDIC, 550 17th Street, NW, Washington, D.C. 20429. Please refer to the log number and include any additional information that you would like the General Counsel to consider.

If you have any questions with respect to this matter, you may contact me at (202) 898-6901 or may contact senior FOIA specialist Jerry Sussman of my staff at (202) 898-6904. Thank you for your interest in the FDIC.

Sincerely,



Fredrick L. Fisch
Supervisory Counsel
FOIA/Privacy Act Group