



Animal and Plant
Health Inspection
Service

January 16, 2018

Marketing and
Regulatory
Programs

Katherine Groff
Via email: katherineg@peta.org

Animal and
Plant Health
Inspection
Service

Dear Ms. Groff:

This letter is in response to your February 9, 2017, Freedom of Information Act (FOIA) request for the following information:

Legislative and
Public Affairs

- 1) Customer Number: 1115
Certificate Number: 93-R-0283
Inspection Site Name: Robert Sargent
Request: All photographs taken by the USDA at the facility or otherwise in USDA's possession from March 2016.
- 2) Customer Number: 331329
Certificate Number: 91-R-0072
Inspection Site Name: Pi Bioscientific Inc. - Site 001
Request: All photographs taken by the USDA at the facility or otherwise in USDA's possession from March 2016.
- 3) Customer Number: 43309
Certificate Number: 93-R-0521
Inspection Site Name: Pro Sci Inc. - Site 002
Request: All photographs taken by the USDA at the facility or otherwise in USDA's possession from July 2015, March 2016, and September 2016.
- 4) Customer Number: 43309
Certificate Number: 93-R-00229
Inspection Site Name: Pro Sci Inc. - Site 001
Request: All photographs taken by the USDA at the facility or otherwise in USDA's possession from March 2016 and September 2016.

Freedom of
Information

4700 River Road
Unit 50
Riverdale, MD
20737-1232

Your request was received in this office on February 9, 2017, and assigned case number FOIA 2017-APHIS-02031-F.

On February 26, 2017, your request was forwarded to the Animal Care (AC) program office to conduct a search for records responsive to your request. On August 24, 2017, AC completed the search of their Animal Care Information System (ACIS) electronic filing database using the information provided in your request. AC located 72 pages of records responsive to your request. Of these 72 pages, 8 pages are responsive to Certificate Number 93-R-0283 and are being withheld in part pursuant to FOIA Exemption 6, 5 U.S.C. § 552 (b)(6) and FOIA Exemption 7, 5 U.S.C. § 552 (b)(7)(c). Additionally, the the 64 pages responsive to Customer Number 43309 are being released to you in their entirety without any redactions.

Exemption 6

Exemption 6 permits the government to withhold from “personnel and medical files and similar files” information about individuals when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” We have determined that these records meet the definition of “similar” files, because they contain information pertaining to individuals.

In order to determine whether a document may be withheld under Exemption 6, an agency must undertake a three-step analysis. First, the agency must determine whether a significant privacy interest would be compromised by the disclosure of the record. Second, the agency must determine whether the release of the document would further the public interest by shedding light on the operations and activities of the Government. Third, the agency must balance the identified privacy interests against the public interest in disclosure. In this circumstance, we are withholding the identifying information of private individuals’ name and job title.

We have determined that the confidential source has more than a *de minimis* privacy interest in this information because the identifying information could be used to make unwanted contact or communications with individuals mentioned in the documents. Under Exemption 6, the only pertinent public interest is whether release of the information would shed light on the agency’s activities and the agency’s performance of its statutory duties. We determined that the release of the identifying information does not shed any light on APHIS activities. Therefore, the privacy interests of the individuals in the records you have requested outweigh the non-existent public interest in disclosure of the information.

Finally, regarding AC's search for responsive documents Certificate Number 91-R-0072 in your request, I can neither confirm nor deny that any records exist. AC conducted a search for records related to your request during the timeframe you specified. Confirmation of the existence of such records would itself reveal exempt information. To acknowledge the existence of records would constitute a clearly unwarranted invasion of personal privacy pursuant to Exemption 6 of the FOIA. Responsive records, if they existed, would be exempt from disclosure under Exemptions 5, 6, and/or 7C.

Because of the obvious possibility of embarrassment, harassment, intimidation, or other personal intrusions, we find that to even acknowledge that responsive records may exist pertaining to any portion of your request would result in a substantial invasion of privacy. While APHIS is strongly committed to keeping the public fully informed about agency operations, we also are concerned about preserving the privacy rights of individuals.

An agency's statement in response to a FOIA request, that it can neither confirm nor deny the existence of records, is commonly called a "Glomar" response. A Glomar response is justified when confirmation of the existence of certain records would itself reveal exempt information and the following four circumstances exist:

1. The request is made by a third party.
2. The request is for information about a person identified by name.
3. The named individual is not deceased.
4. The individual has not given the requester a waiver of his privacy right.

I have determined that all of the above circumstances exist, and therefore, a Glomar response is justified for Item #2 of your request.

You may contact Kacie Edwards, the analyst who processed your request, at (301) 851-4084 or Kacie.L.Edwards@aphis.usda.gov as well as Mr. James Ivy, our FOIA Public Liaison, at (301) 851-4100 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with the response to this request, you may administratively appeal by writing to: Administrator, Animal and Plant Health Inspection Service, Ag Box 3401, Washington, DC 20250-3401. Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request.

Please refer to FOIA 2016-APHIS-02031-F in your appeal letter and add the words "FOIA Appeal" to the front of the envelope. To assist the Administrator in reviewing your appeal, provide specific reasons why you believe modification of the determination is warranted.

Because the cost to process your request is less than \$25.00, the fee has been waived.

Sincerely,



For
Tonya Woods
Director
Freedom of Information and Privacy Act

Legislative and Public Affairs

Enclosures