



OFFICE of GOVERNMENT INFORMATION SERVICES

February 9, 2015 — Sent via email

████████████████████
██
████████████████████

Re: Case No.: 201400748
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

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e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
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Dear ██████████:

This responds to your August 8, 2014 request for assistance from the Office of Government Information Services (OGIS), which we received via email. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Department of Agriculture's Farm Services Agency (FSA). We regret our delay in responding to your request.

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

We have carefully reviewed your submission of information and we understand that you made a request to FSA on behalf of your client, ██████████ seeks records related to a tract of land owned by ██████████. In response to your request, FSA released one page in full and withheld another in full. It released 20 pages in part, with sections withheld pursuant to FOIA Exemptions 3 and 6, U.S.C. §§ 552(b)(3) and (b)(6). You appealed that response. On appeal, the FSA released additional information on 14 of the 21 withheld pages. You dispute this response, explaining the importance of the withheld information to your client.

As FSA explained in its July 17, 2014 appeal response letter, FOIA Exemption 3 incorporates other, separate statutes that require information to be withheld from release. In this case, 7 U.S.C. § 8791 applies. This statute leaves no discretion for the agency to release certain categories of information provided by an agricultural producer or landowner in order to participate in programs such as the Conservation Reserve Program, whatever the circumstances of the requester.

FSA also withheld information about a third party in the requested records pursuant to FOIA Exemption 6. In considering withholding records under Exemptions 6, an agency must weigh the interest in public disclosure against an individual's right to privacy. Courts have consistently held that the central purpose of



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FOIA is to allow people to learn about the conduct of agencies, not to discover information about other individuals. The U.S. Supreme Court held that “the statutory purpose [of FOIA] is not fostered by disclosure of information about private citizens that is accumulated in various governmental files but that reveals little or nothing about an agency’s own conduct.” *U.S. Dep’t of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 773 (1989). Please know that were someone to make a request for similar information about land owned by your client, FSA would respond the same way to that request as it did to this one.

In your correspondence to OGIS, you specify that you seek the following information about a parcel of land abutting your client’s property: which 7.2 acres of that land received CRP designation; the crop production claimed by the applicant on that 7.2 acres; how this claim was verified by FSA; and any authority given to the landowner to use the 7.2 acres for a purpose other than that designated in the FSA application. We discussed your request with FSA, and learned that the records processed in response to your FOIA request did not contain this information. You may instead wish to make a FOIA request for crop production records and the annual acreage report for the identified property.

In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency’s actions. I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

Nikki Gramian, Acting Director
Office of Government Information Services (OGIS)

cc: Barbara McLean, FSA FOIA/PA Specialist