



OFFICE of GOVERNMENT INFORMATION SERVICES

August 26, 2016 - Sent via email



Re: Case No. 201600934
NG: CM: KG

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

Dear [REDACTED]

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

This responds to your June 6, 2016 request to the Office of Government Information Services (OGIS), which we received via U.S. mail. Your request for assistance concerns your Freedom of Information Act (FOIA) request to the National Aeronautics and Space Administration (NASA) and your records request to the Smithsonian Institution.

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

OGIS was created to complement existing Freedom of Information Act (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. Please know that 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.

OGIS provides mediation services to resolve disputes between FOIA requesters and Federal agencies. After opening a case, OGIS gathers information from the requester and the agency to learn more about the nature of the dispute. This process helps us gather necessary background information, assess whether the issues are appropriate for mediation, and determine the willingness of the parties to engage in our services. As part of our information gathering, OGIS carefully reviewed your submission of information regarding your two record requests.



Both of your requests related to [REDACTED] you filed with NASA. You asked OGIS to look into issues which we will address below.

NASA's Review of [REDACTED]

You asked OGIS to determine whether or not NASA ever prepared any review of [REDACTED] and if so, release it.

OGIS's jurisdiction is limited to the FOIA process, therefore we cannot answer this questions. However, NASA's response to your FOIA request [REDACTED] explains that your FOIA request regarding [REDACTED] asked questions about [REDACTED] rather than asking for records. The FOIA gives requesters the right to

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request federal *records*. The law does not give the public the right to obtain answers in response to questions or to explain the context of documents.

NASA's [REDACTED] Equivalent

As a result of your appeal of [REDACTED] NASA's appeals office remanded parts 3 and 4 of your request to the NASA Headquarters FOIA Office for further processing. Part 3 of your request was for

[REDACTED] Part 4 of your request was for

[REDACTED] You asked OGIS to determine whether or not NASA has [REDACTED] or the equivalent and, if so, release it.

While OGIS cannot compel an agency to release documents, we did contact NASA to discuss parts 3 and 4 of request No. [REDACTED]. OGIS learned on [REDACTED], NASA responded to your request, releasing 120 pages in their entirety, which included [REDACTED]

A copy of the agency's response is attached to this letter.

NASA's Use of the Term "Records"

In response to your appeal, NASA stated, "your second request does not call for records." You assert that you asked for "documents."

When federal agencies run searches for material responsive to FOIA requests, those searches could potentially produce an array of products, such as documents, maps, video records, audio recordings, photographs, etc. Agencies use the word "records" to describe those materials. When NASA search for material responsive to your request, they referred to it as records, because records is much broader than "documents."

NASA [REDACTED] and [REDACTED]

You asked OGIS to determine whether or not NASA NSSC FOIA Office withheld pages from the copies [REDACTED] when the agency released [REDACTED]

OGIS reviewed the agency's [REDACTED] response to your request. The agency's letter does not claim any FOIA exemptions for the release of these [REDACTED]. Under Section 12 of the Open Government Act agencies **must** mark documents to indicate the amount of information deleted, and the location of that deletion, agencies should also indicate the exemption being asserted. In your case, the agency did not claim an exemption for the portion of your request dealing with [REDACTED].

Smithsonian Referral to NASA

You asked OGIS to determine whether or not NASA received the 117 pages from the Smithsonian regarding [REDACTED] in [REDACTED] and, if so, release them. You believe the documents referred contained the [REDACTED] you had previously received from NASA. The previous release from NASA was 22 pages. You want to know why there is a discrepancy between the 22 pages NASA originally produced and the 117 the Smithsonian referred.

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OGIS contacted NASA to confirm that NASA Shared Services Center (NSSC) FOIA received 117 pages referred by the Smithsonian. NASA's Principle Agency FOIA Officer and Chief Public Liaison Miriam Brown-Lam confirmed that the agency received the documents from the Smithsonian on ██████████ and confirmed that receipt with you. On ██████████, you emailed NASA (see enclosure) asking several questions regarding the type of documents the Smithsonian referred. You also asked the agency to send you a list of the records, the title of the record, which entity created it, the date it was created, and the number of pages.

While it is not required that NASA provide this information, as a courtesy to you, NASA acknowledged on ██████████ the records were ██████████

██████████
██████████ In your ██████████ email you directed the agency not to process the documents until it was clear that the referred documents were ██████████. In response to your email asking the agency to wait to process the documents, NASA closed this case, considering it withdrawn. If you would like the agency to process these documents you would have to resubmit your request.

As to the discrepancy between the 22 pages released in 2012 and the 117 pages referred in ██████████, it is possible that the Smithsonian maintained more documentation regarding ██████████ than NASA did, therefore the agency would have more responsive records.

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

Enclosure

cc: Miriam Brown-Lam, FOIA Public Liaison, National Aeronautic and Space Administration

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.