



United States
Department of
Agriculture

Office of the General Counsel
1400 Independence Ave. SW
Washington, DC 20250-1400

April 29, 2020

Delivered via Electronic Mail

Austin R. Evers
American Oversight
1030 15th Street NW
Suite B255
Washington, District of Columbia 20005
Email: foia@americanoversight.org

Ricardo J. Salvador
Union of Concerned Scientists
1825 K Street NW
Suite 800
Washington, District of Columbia 20006

**Re: Freedom of Information Act (FOIA) Request No. 2020-DA-02844-F
Final Response**

Dear Mr. Evers and Mr. Salvador:

This is the final response to the March 4, 2020, Freedom of Information Act (FOIA) request you submitted to the U.S. Department of Agriculture (USDA), Departmental FOIA Office (DFO). Your request sought the following records, for the time period from January 1, 2017 to October 25, 2019:

All email communications (including emails, complete email chains, and email attachments) that were sent by any of the agency officials listed below to any email address ending in .com / .org / .net / .edu / .mail (including any messages on which such email addresses were copied (CC) or blind copied (BCC)), and that contain any of the following terms anywhere in the email chain:

- “805 Penn”
- “Penn Seven”
- “DST Realty”
- “Broadway Square
- “Kit Bond”
- “Roney”
- “Hulshof”
- “Project Leavitt”
- “115,425”
- “115425”
- “Merriman”
- “Dasta”

USDA Officials:

- i. Sonny Perdue, Secretary, and anyone communicating on his behalf, such as executive assistants, personal assistants, or schedulers
- ii. Stephen Censky, Deputy Secretary
- iii. Donald Bice, Acting Deputy Assistant Secretary for Administration
- iv. Scott Hutchins, Deputy Under Secretary for Research, Education, and Economics
- v. Robert Johansson, Chief Economist
- vi. Chris Hartley, Acting Administrator of the Economic Research Service
- vii. Michelle Esch, Executive Director of the National Agricultural Research, Extension, Education & Economics Advisory Board
- viii. J. Scott Angle, Director of the National Institute of Food and Agriculture
- ix. Kristi Boswell, Senior Advisor
- x. Brian Klippenstein, Senior Advisor
- xi. Benny Young, Associate General Counsel
- xii. Former White House Liaison Sam Clovis

On March 17, 2020, pursuant to USDA regulation 7 C.F.R. § 1.4(c), the DFO routed items iv, vi, vii, and viii, of your request to the Research, Education, and Economics (REE) mission area for processing and direct response to you.

Your request has been processed under the FOIA, 5 U.S.C. § 552.

A search for responsive records was conducted by the DFO's telecommunications provider, the Client Experience Center (CEC). The CEC provides comprehensive, fee-for-service information technology (IT) associated operations, security, and technical support services to USDA end users. The CEC also implements and manages enterprise IT solutions for users Department-wide. The email accounts associated with individuals listed in your request were searched, from January 1, 2017 to October 25, 2019. The CEC search located four (4) pages of responsive records.

Following a review of the records, the DFO has determined that certain information contained therein should be withheld pursuant to U.S.C. § 552 (b)(6) (FOIA Exemption 6). Below is an explanation of the information that has been withheld.

FOIA Exemption 6

Exemption 6 generally is referred to as the "personal privacy" exemption. It provides that the disclosure requirements of FOIA do not apply to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy."

Application of the exemption involves balancing the public's interest in disclosure against individuals' privacy interests.

The information withheld under Exemption 6 consists of mobile phone numbers, direct-dial phone numbers, unpublished business email addresses, and a passcode for a conference call. This information qualifies as "similar files" because it is information in which individuals have a privacy interest. Furthermore, the withheld information is personal in nature and its release would reveal little about the operations or activities of the government. Releasing individuals' mobile phone numbers, direct-dial phone numbers, and unpublished business email addresses could subject them to unwarranted or unsolicited communications, or even harassment.

Regarding the conference call passcode, participants of a conference call have a privacy interest in ensuring that no uninvited person is listening in on their calls. The release of passcodes could undermine the privacy of those calls. Since there is a viable privacy interest that would be threatened by disclosure, Exemption 6 authorizes this office to withhold the information.

Accordingly, the DFO has determined that the public interest in the information's release does not outweigh the overriding privacy interests in keeping it confidential.

You may appeal this response by email at USDAFOIA@usda.gov. Your appeal must be in writing, and it must be received electronically no later than 90 calendar days from the date of this letter. The OGC will not consider appeals received after the 90 calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above, a copy of the original request, the DFO's response to your original request, and a statement explaining the basis of your appeal. For quickest possible handling, the subject line of your email should be marked "Freedom of Information Act Appeal." You should also reference FOIA No. 2020-DA-02844-F.

You may seek dispute resolution services from the DFO's FOIA Public Liaison, Ms. Camille Aponte. Ms. Aponte may be contacted by telephone at (202) 690-5260, or electronically at Camille.Aponte@usda.gov or USDAFOIA@usda.gov.

You also have the option to seek assistance from the Office of Government Information Services (OGIS). Please visit <https://www.archives.gov/ogis/mediation-program/request-assistance> for information about how to request OGIS assistance in relation to a FOIA request.

Provisions of the FOIA allow us to recover part of the cost of processing your request. In this instance, your fee waiver has been granted and no fees will be charged.

If you have any questions regarding the processing of this request, please contact Ms. Melanie Enciso at (202) 694-5982, or electronically at melanie.enciso@usda.gov or USDAFOIA@usda.gov.

For additional information regarding USDA FOIA regulations and processes, please refer to the information available online at www.dm.usda.gov/foia.

Austin R. Evers / Ricardo J. Salvador

FOIA Case No. 2020-DA-02844-F

Page 4

The DFO appreciates the opportunity to assist you with this matter.

Sincerely,

Alexis R. Graves

Alexis R. Graves

Departmental FOIA Officer

Office of the General Counsel

Enclosures: Responsive Records (4 pages)

From: [Young, Benjamin - OGC, Washington, DC](#)
To: [Cathleen Flournoy](#)
Subject: Re: 10/23 Conference Call Details
Date: Friday, October 25, 2019 1:23:47 PM
Attachments: [image001.png](#)

Did vote on ordinance get postponed until Thursday?

Get [Outlook for iOS](#)

From: Cathleen Flournoy <(b)(6)@edckc.com>
Sent: Friday, October 25, 2019 12:54:58 PM
To: Schaaf, David - OGC, Kansas City, MO <david.schaaf2@usda.gov>; Stombaugh, Mark <Mark.Stombaugh@ded.mo.gov>; Young, Benjamin - OGC, Washington, DC <Benjamin.Young@usda.gov>; Mark Coulter <(b)(6)@portkc.com>; Brian Rabineau <(b)(6)@portkc.com>; 'Deborah Price' <deborah@missouripartnership.com>; 'Frantze, David' <david.frantze@stinson.com>; 'richard.cook@stinson.com' <richard.cook@stinson.com>
Cc: Greg Flisram <(b)(6)@edckc.com>; Drew Solomon <(b)(6)@edckc.com>
Subject: RE: 10/23 Conference Call Details

All,

The City's portion of the incentive needs to read as follows:

1. Redirection of 75% of local taxes imposed annually by the City of Kansas City, Missouri, delivered annually for fifteen years, with an estimated annual amount of \$330,000 up to an amount not to exceed \$6,000,000. This incentive is subject to approval by the Kansas City, Missouri City Council.
2. ~~A relocation fund of \$1 million provided by the City of Kansas City, Missouri for USDA to use at its discretion for relocating ERS and NIFA employees. Funds would be delivered at the commencement of relocation of ERS and NIFA by USDA. This incentive is subject to approval by the Kansas City, Missouri City Council.~~

In an effort to streamline the redirection, the City decided to combine the redirection and relocation fund into an amount not to exceed \$6 million.

Please let me know if you have additional questions.

-Cathleen

CATHLEEN FLOURNOY

Sr. Business & Development Services Specialist, Legislative Affairs

ECONOMIC DEVELOPMENT CORPORATION OF KANSAS CITY

300 Wyandotte | Suite 400 | Kansas City, MO | 64105

d: 816.691.2128 | www.edckc.com

From: Schaaf, David - OGC, Kansas City, MO [mailto:david.schaaf2@usda.gov]
Sent: Friday, October 25, 2019 11:37 AM
To: Stombaugh, Mark <Mark.Stombaugh@ded.mo.gov>; Young, Benjamin - OGC, Washington, DC <Benjamin.Young@usda.gov>; Mark Coulter <(b)(6)@portkc.com>; Brian Rabineau <(b)(6)@portkc.com>; 'Deborah Price' <deborah@missouripartnership.com>; Cathleen Flournoy <(b)(6)@edckc.com>; 'Frantze, David' <david.frantze@stinson.com>; 'richard.cook@stinson.com' <richard.cook@stinson.com>
Subject: RE: 10/23 Conference Call Details

Caution: Email originates outside EDCKC. Please stop and think before clicking a link, opening attachments or entering credentials.

I've attached an updated Memorandum of Agreement that incorporates the letter agreement.

Also, I've approached this as if there is one person that is able to authorize the MOA---if this needs to be divided into multiple MOA (with Port, City, State, University, etc.), please let me know and we can try to accomplish that.

Thank you, and have a good weekend.



David W. Schaaf
 Deputy Regional Attorney
 Central Region—Kansas City
 Office of the General Counsel
 U.S. Department of Agriculture
 P.O. Box 419205—Mail Stop 1401
 Kansas City, MO 64131
 ☎ (b)(6) (Voice-Direct)
 ☎ 816-823-4646 (Voice-Main)
 844-288-3354 (Fax)
 ✉ david.schaaf2@usda.gov

From: Schaaf, David - OGC, Kansas City, MO
Sent: Wednesday, October 23, 2019 9:30 AM
To: Stombaugh, Mark <Mark.Stombaugh@ded.mo.gov>; Young, Benjamin - OGC, Washington, DC <Benjamin.Young@usda.gov>; Mark Coulter <(b)(6)@portkc.com>; Brian Rabineau <(b)(6)@portkc.com>; 'Deborah Price' <deborah@missouripartnership.com>; 'Cathleen Flournoy' <(b)(6)@edckc.com>; 'Frantze, David' <david.frantze@stinson.com>;

'richard.cook@stinson.com' <richard.cook@stinson.com>

Subject: RE: 10/23 Conference Call Details

Here is a very rough outline of Memorandum of Agreement discussed in the call.



David W. Schaaf
Deputy Regional Attorney
Central Region—Kansas City
Office of the General Counsel
U.S. Department of Agriculture
P.O. Box 419205—Mail Stop 1401
Kansas City, MO 64131
 (b)(6) (Voice-Direct)
 816-823-4646 (Voice-Main)
844-288-3354 (Fax)
 david.schaaf2@usda.gov

From: Stombaugh, Mark <Mark.Stombaugh@ded.mo.gov>

Sent: Tuesday, October 22, 2019 3:37 PM

To: Schaaf, David - OGC, Kansas City, MO <david.schaaf2@usda.gov>; Young, Benjamin - OGC, Washington, DC <Benjamin.Young@usda.gov>; Mark Coulter <(b)(6)@portkc.com>; Brian Rabineau <(b)(6)@portkc.com>; 'Deborah Price' <deborah@missouripartnership.com>; 'Cathleen Flournoy' <(b)(6)@edckc.com>; 'Frantze, David' <david.frantze@stinson.com>; 'richard.cook@stinson.com' <richard.cook@stinson.com>

Subject: 10/23 Conference Call Details

All:

I've attached the draft of the Letter Agreement for our review and discussion tomorrow morning. The dial in information for the call and rough topics to cover are below. Please don't hesitate to contact me with any questions.

Conference Line: 877-820-7831

Guest Access ID: (b)(6)

Goal: Address any questions or clarification for the final incentive structure and the outlined reporting necessary to record these general conditions.

- I. General Introductions
- II. Timeline and process updates

- a. USDA
- b. Owner's Representatives – Penn Seven, LLC
- c. City of KC through EDC of KC
- d. Port KC
- III. Goals of the Letter Agreement
- IV. Discussion of any Outstanding Action Items
- V. Closing the loops for respective communication teams

I look forward to visiting with everyone tomorrow morning at 9:00PM.

Respectfully,

Mark Stombaugh
Missouri Department of Economic Development
301 W High St., Suite 720
Jefferson City, MO 65101
O: 573.522.0338
M: (b)(6)

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