

Attachment A

From: John Crandell
Sent: Friday, May 28, 2021 2:16 PM
To: FOIA@oig.doc.gov
Subject: Freedom of Information Act Appeal and COMPLAINT

TO: COUNSEL FOR THE INSPECTOR GENERAL

U.S. Department of Commerce, Office of the Inspector General, Office of Counsel, Room 7898C, 1401 Constitution Avenue NW, Washington, DC 20230 FOIA@oig.doc.gov

Freedom of Information Act Appeal
And
COMPLAINT

Comes now, appellant John Osborne Crandell III, in appeal for relief and remedy of ongoing harms resultant from now provably misleading FIOA response Final Response to FOIA 18-12 asserting that the requested document was destroyed at the time of the request (PRO 18-12) and from the ongoing harms resulting from the incomplete and non-responsive address to related FOIA request (PRO 20-34).

Eligibility for appeal pursuant to non-responsive address of FOIA requests is not subject to 90 day from date of final response (15 CFR § 4.10, (a(2)) "...if there has been no determination, an appeal may be submitted any time after the due date....".

I. The Parties to This Appeal:

A. The Appellant:

Name	<u>John Osborne Crandell III</u>
Street Address	<u>160 Capon Springs Grade</u>
City and County	<u>Star Tannery</u>
State and Zip Code	<u>VA</u>
Telephone Number	<u>(540) 622-4321</u>
E-mail Address	<u>johncrandell@live</u>

B. The FOIA respondents implicated:

Respondent No. 1

Name	<u>U.S. Dept. of Commerce, Economic Development Administratio</u>
Job or Title (if known)	<u>Philadelphia Regional Office</u>
Street Address	<u>Robert N.C. Nix Federal Building, 900 Market Street, Room 602</u>
City and County	<u>Philadelphia, Philadelphia County</u>

State and Zip Code	Pennsylvania 19107
Telephone Number	215-597-4603
E-mail Address (if known)	Linda Cruz Carnall, Regional Director: LCruz-Carnall@eda.gov

Respondent No. 2

Name	Christopher Anderson
Job or Title (if known)	Regional Counsel
Street Address	Robert N.C. Nix Federal Building, 900 Market Street, Room 602
City and County	Philadelphia, Philadelphia County
State and Zip Code	Pennsylvania 19107
Telephone Number	(215) 597-7896
E-mail Address (if known)	CAnderson@eda.gov

Respondent No. 3

Name	Andrew Fiddes
Job or Title (if known)	Deputy Regional Freedom of Information Act Officer
Street Address	Robert N.C. Nix Federal Building, 900 Market Street, Room 602
City and County	Philadelphia, Philadelphia County
State and Zip Code	Pennsylvania 19107
Telephone Number	(404)730-3031
E-mail Address (if known)	afiddes@eda.gov

Background

In a well documented series of Freedom of Information Act requests and related communications from December 5, 2017 to October 30, 2021, the appellant has been supplied self-contradictory, misleading, and evasive responses regarding the availability of requested contract documents of EDA grant project 01-01-03226 and related matters.

The appellant alleges that EDA Regional Counsel, as an entity most officially responsible for oversight, enforcement of grant contracts and prevention of fraud in government contracts in the pursuant EDA region, due to conflict of interest issues, was not an appropriate FOIA respondent in a request for information that was already known to the respondent to be related to suspected Major Fraud of the U.S. Government, as this required the same person to provide proof of his own offices failure of professional performance and official duty.

In the official Final Response to PRO 12-18, EDA regional counsel Christopher Anderson states:

EDA has been unable to locate any documents responsive to your request. A request was made to the Federal Records Center for archived documents, but no documents were found. Please note that the project you referenced was completed in 1995 and that under EDA's records retention schedule, records related to construction projects are normally destroyed twenty years after project completion.

;and in other correspondence Christopher Anderson cites the EDA project 01-01-03226 in question commenced in 1992, and indicates the accrual of 20 years to authorized destruction begins on that date of commencement of the project. Neither of these statements is accurate.

EDA grant projects such as 01-01-03226 have a five year "open period" of eligibility for distribution of grant funds, after which the intent of the grant is conveyed into perpetuity by Covenants and Restrictions approved by the Assistant Secretary of the Department of Commerce (see Economic Development Administration manual "Requirements for Approved Projects", 8th Edition (1987), General Conditions, page 15, paragraph 4).

The "open period" EDA grant project 01-01-03226 commenced in September of 1992 and closed in September of 1997, a fact that is also evidenced in the official minute records of the grant recipient, Hardy County Rural Development Authority. Furthermore, the destruction schedule associated with documents such as those of EDA project 01-01-3226 clearly states that the destruction authorization does not lawfully occur until the end of the year in which the 20 year retention period lapsed. Therefore, the documents of EDA project 01-01-03226 were not legitimately authorized for destruction until midnight on December 31, 2017, which is 25 days after PRO 12-18 is acknowledged to have been received by Regional Counsel Christopher Anderson.

Subsequent FOIA requests (PRO 20-34 and additional request item submitted by letter of July 29, 2020) responded to by FOIA Officer Andrew Finnes have been incomplete and pursuant correspondences have been evasive and eventually unresponsive. These requests are for documents that should be in existence to substantiate Christopher Anderson's statements that the Federal Records Center had been contacted and subsequent response that the documents were no longer available, if those statements are truthful. In particular, PRO 20-34 included request for the archive retrieval reference numbers which Christopher Anderson must have utilized if such a request for retrieval from archive was actually conducted; these are archival retrieval references any citizens could utilize in request for copy of the archived public documents directly to the Federal Records Center.

A letter of October 30, 2020 restates the outstanding FOIA request items to FOIA officer Andrew Finnes, describes facts stated herewith, demands response and remains completely unanswered at this time.

Injury

The inappropriate, untruthful, and incomplete responses to FOIA requests have compromised criminal complaint to the U.S. Attorney for Northern District of West Virginia and to the Attorney General for the Department of Commerce regarding fraud in EDA project 01-01-

03226, which has also obstructed the plaintiffs qui tam civil action in the U.S. District Court for the Northern District of West Virginia (2:18-CV-124). The same violations of legitimate FOIA responses continue to obstruct justice in ongoing civil action in the U.S. District Court for the Northern District of West Virginia (2:18-CV-87), where plaintiff seeks remedy for usurpation of rights of property and violation of contract resulting from actions alleged to have been motivated by intent to perpetuate the concealment of facts related to conspiracy to commit Major Fraud Against the United States, 18 U.S. Code § 1031 pursuant to EDA grant project number 01-01-03226 (see BACKGROUND in 2:18-CV-87, ECF No. 147).

Appeal

The appellant seeks relief in the form of administrative order to command:

1. Truthful corrective response to previously misleadingly answered FOIA request PRO 18-12.

Notice that if the documents of EDA grant project 01-01-03226 requested in PRO 18-12 have now been destroyed in accordance official destruction schedule, then this execution of destruction of documents must have occurred after the fact of knowledge of a pursuant private investigation of Major Fraud of the Government by the EDA Regional Counsel, Philadelphia region. Either the documents of EDA project 01-01-03226 are still available for production, or there has been a destruction of evidence known to be relevant to criminal and civil proceedings. Response should admit one of those two realities.

2. Completion of response to FOIA request PRO 20-34
3. Response to additional FIOA request item conveyed to FOIA office Andrew Finnes in letter of July 29, 2020.
4. Alternative responses as described in letter to FOIA officer Andrew Fiddes in letter of October 30, 2020.
5. Preservation of all materials pursuant to this appeal
6. Compensation for harms and the legal legal and administrative expenses pursuant to the matters of this appeal.
7. Criminal investigation and prosecution to deter ongoing harms, such the appellant has endured, from adversely impacting the rights of other citizens of the United States of America.

Attachments:

1. Final Response PRO 18-12
2. Letter of July 29, 2020: Addendum Request Item to FOIA 20-34
3. Letter of October 30,2020: Final Appeal to Fiddes (unanswered)

May 28, 2021



John Osborne Crandell III
160 Capon Springs Grade
Star Tannery, VA 22654

540-622-4321

Sent from Mail for Windows 10.

Attachment A (1)
Freedom of Information Act Request

Andrew R. Fiddes
Deputy Regional Freedom of Information Act Officer
UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Robert N.C. Nix Federal Building
900 Market Street, Room 602
Philadelphia, Pennsylvania 19107

afiddes@eda.gov <afiddes@eda.gov>

By e-mail and United States post

Dear Mr. Fiddes,

Please provide copy of any procedural protocol, and policy documents or directives for how Freedom of Information Act (FOIA) requests are to be executed by the Economic Development Authority (EDA) and any other policy, procedure, or guideline document which directs which EDA personnel are authorized to make FOIA responses effective on December 5, 2017, the time of FOIA PRO 18-12.

Thank you for your attention,

Respectfully,

A handwritten signature in black ink that reads "John O. Crandell III". The signature is written in a cursive style with a prominent "III" at the end.

July 29, 2020

John Crandell III
160 Capon Springs Grade
Star Tannery, VA 22654
johncrandell@live.com
540-622-4321

Attachment A (2)

To:

Mr. Andrew R. Fiddes

Deputy Regional Freedom of Information Act Officer
UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Robert N.C. Nix Federal Building
900 Market Street, Room 602
Philadelphia, Pennsylvania 19107

Deliver in print by U.S.P.S. certified mail and by e-mail to: AFiddes@eda.gov

October 30, 2020

Dear Mr. Fiddes

In response to your e-mail of October 8, 2020:

I do not agree. I am most dismayed by your response. My requests to you have been well expressed in PRO 20-34, and you have demonstrated acknowledgement and understanding of those requests in the course of your materially incomplete response. You were notified of the incompleteness of the response to PRO 20-34 on June 29, 2020 and at that time I supplied you with more detailed background of those requests to assist your completion of the response. In my following letter of July 29, 2020, I again reminded you of the incompleteness of the response and submitted an addition FOIA request item at that time, which has also not been addressed. We then had a lengthy telephone conversation about the many unaddressed issues and items of my request in which we discussed the requested documents and alternative information that might satisfy the many outstanding request items.

Weeks later on October 8, 2020, you resumed communication by e-mail identifying only the completion of the partly answered fourth item of PRO 20-34 as outstanding, while prompting me to accept that this is all that is require to satisfy the many unaddressed requests. It most certainly is not.

Please be reminded that the matters these requests I have been corresponding with you about are an ongoing part of a much longer string of self-conflicting and otherwise inappropriately answered FOIA requests regarding EDA project 01-01-03226 which I have submitted to the EDA starting in December of 2017.

If you will not be supplying the specific documents requested in PRO 20-34, please supply DOCUMENTS supporting your assertions about why the information requested is not available

according to authorized procedures; I will expect the policy documents, memos or other authorizations that best support the validity and authorization of those procedures which made it possible that the information I requested is not available. For example regarding PRO 20-34 item number 1: if Mr. Anderson's communications with the National Records Center requesting the retrieval of EDA 01-01-03226 documents pursuant to his response to PRO 18-12 are not available, then supply administrative policy and procedure documents that explain how this communication is authorized to be conducted. Your earlier suggestion that Mr. Anderson did all this request and pursuant transfer of often lengthy archival retrieval identifiers over a telephone conversation is implausibly atypical of modern administrative communications, particularly regarding communication of such lengthy and precise archive reference identifiers.

Regarding PRO 20-34 item number 3, please supply record of those archival locating identifiers for the records of EDA project 01-01-03226; the information which Mr. Anderson would have essential requirement for supply to the records center to make the archived records retrieval request pursuant to PRO 18-12. These retrieval identifiers might include location numbers, box numbers, binder numbers or other such retrieval locating references. You must have these archive reference numbers in possession at the EDA, otherwise it would make an absurdity of the concept of archiving records. There would be no point in archiving EDA records at all if it were EDA policy to lose the retrieval information.

According to my additional FOIA request item of July 29, 2020, please also supply any and all administrative policy documents that support the appropriateness of Mr. Anderson becoming the person tasked with answering PRO 18-12.

At the time of submission of those PRO 18-12 FOIA requests for the documents of EDA project 01-01-03226, Mr. Anderson had already been notified, via briefing on my conversations with the EDA regional director, that there were significant indications of Major Fraud Against the Government identified surrounding EDA project 01-01-03226. Mr. Anderson was therefore fully aware that evidence of contract fraud had been identified, and moreover that my rights of property were **currently** being infringed as the perpetrators of that fraud were coincidentally harming me in a desperate attempt to further concealment of the wrongdoing. There are clear conflicts of interest issues for a person so directly in a position of responsibility for preventing or addressing fraud in EDA contracts as Mr. Anderson to also be the person responsible for answer to FOIA requests for information related to the exposure of fraud in the same contracts by others. This is effectively expecting Mr. Anderson to be responsible for supply of FOIA information that would reflect badly on his own professional performance, or worse.

I can now document that Mr. Anderson was forewarned of the fraud relationship of my FOIA request and that Mr. Anderson responded with two mutually conflicting explanations for why those documents were no longer available, neither of which was truthful. Contrary to Mr. Anderson's responses, the requested documents had not been authorized for destruction at that time and thus should have been retrievable in the response of PRO 18-12.

Therefore, this additional FOIA request item supplied to you on July 29, 2020 asked for supply of any administrative policy documents that might defend or explain how the kind of conflict of interest described above is an accepted part of a U.S. government agency procedure.

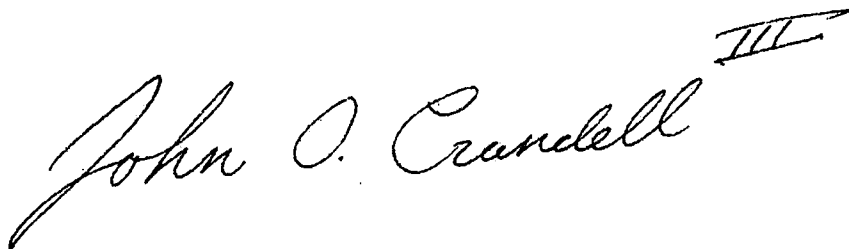
In summary, regarding PRO 20-34, response to request item number 4 is incomplete just as you suggest in your letter of October 8, 2020 and can be completed by continuing the same reports you supplied so far to extend back through dates in year 1987; item number 1 is still totally unanswered; item number 3 is unanswered; and the additional item requested in the letter of July 29, 2020 is also unanswered.

I implore you to review PRO 20-34, and my letters of June 29, 2020 and July 29, 2020 covering the issues with your incomplete initial response as well as the additional FOIA request item on July 29,2020. My requests have been well stated and thoroughly discussed between us. There is little point in further telephone conversation to re-describe the same information, especially if you are only to return weeks later looking for acquiescence to another such gross oversimplification of my requests, as demonstrated in this October 8, 2020 reply.

I have already been met with an exceedingly inappropriate level of delay and evasion in these matters. Please do not allow yourself to become additionally implicated in this manner.

I look forward to and expect your actual responses to my requests.

Respectfully,

A handwritten signature in cursive script that reads "John O. Crandell III". The signature is written in black ink and is positioned above the typed name and address.

John O. Crandell III

160 Capon Springs Grade

Star Tannery, VA 22654

540-622-4321

johncrandell@live.com

Attachment A (3)



UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Philadelphia Regional Office
Robert N.C. Weir Federal Building
900 Market Street, Room 602
Philadelphia, PA 19107

January 5, 2017

Mr. John Crandell
11091 SE 30th Street
Morriston, FL 32668

Re: Freedom of Information Act Request PRO 18-12

Dear Mr. Crandell:

This letter is in response to your Freedom of Information Act (5 U.S.C. § 552) ("FOIA") request submitted December 5, 2017 through the FOIAOnline system and received by the Economic Development Administration ("EDA") on the same date.

In your request, you seek a copy of the following records:

"[D]ocuments related to Economic Development Authority project 01-01-03226."

EDA has been unable to locate any documents responsive to your request. A request was made to the Federal Records Center for archived documents, but no documents were found. Please note that the project you referenced was completed in 1995 and that under EDA's records retention schedule, records related to construction projects are normally destroyed twenty years after project completion.

You have the right to file an administrative appeal within 90 days of the date of this letter. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency's decision. If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact our FOIA Public Liaison Stephen D. Kong for assistance at:

1401 Constitution Ave. NW, Suite 72023
Washington, DC 20230
202-482-4687
Skong@eda.gov

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:



Mr. John Crandell

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Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
ogis@nara.gov
202-741-5770
877-684-6448

Again, pursuant to 15 CFR § 4.10, you have the right to appeal an adverse determination with respect to your FOIA request (as described under 15 CFR § 4.7(b)) by filing either a written or electronic appeal with the Assistant General Counsel for Litigation, Employment and Oversight. A written or electronic appeal must be received within 90 calendar days of the date of this response letter by the Office of Assistant General Counsel for Litigation, Employment and Oversight, Room 5875, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Your appeal may also be sent by e-mail to FOIAAppeals@doc.gov, by facsimile to (202) 482-2552, or via FOIAonline (if you have a FOIAonline account) at <https://foiaonline.regulations.gov/foia/action/public/home>. The appeal must include a copy of the original request, the response to the request and a statement of the reason why withheld records should be made available and why denial of the records was in error. The submission, whether by e-mail, facsimile or FOIAonline, is not complete without the required attachments. The appeal letter, the envelope, the e-mail subject line, and the fax cover sheet should all be clearly marked "Freedom of Information Act Appeal." The email, FOIAonline, and fax machine in the Office of the Assistant General Counsel for Litigation, Employment and Oversight are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box, fax machine, FOIAonline, or Office after normal business hours will be deemed received on the next normal business day.

Please contact my office at (215) 597-7896 if you have any questions or concerns.

Very truly yours,



Christopher Anderson
Regional Freedom of Information Act Officer