



AFL FOIA <foia@aflegal.org>

2023-OGC-00080-F and 2023-OGC-00081-F Action Needed

14 messages

USDAFOIA - Office of Information Affairs <USDAFOIA@usda.gov>

Wed, Aug 2, 2023 at 6:53 PM

To: AFL FOIA <foia@aflegal.org>

Cc: "jacob.meckler@aflegal.org" <jacob.meckler@aflegal.org>

Good evening,

We have reached out several times, beginning in October of last year, to perfect the two subject FOIA requests to USDA. Your participation in this process is necessary to continue.

Because we have not heard back from you we cannot complete the requests. Please get in touch with us before the end of business on August 9, 2023, or we will assume you are no longer interested and close your requests administratively.

We appreciate the opportunity to assist you.

-Office of Information Affairs

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2 attachments

 **2023-OGC-00080-F (Rubinstein) Request Description.pdf**
174K

 **2023-OGC-00081-F (Rubinstein) Request Description.pdf**
176K

AFL FOIA <foia@aflegal.org>

Thu, Aug 3, 2023 at 8:47 AM

To: USDAFOIA - Office of Information Affairs <USDAFOIA@usda.gov>

Thank you for reaching out. Yes, we are still interested in the requests, though I'm not sure what clarification you needed.

Jacob Meckler
America First Legal Foundation
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USDAFOIA - Office of Information Affairs <USDAFOIA@usda.gov>

Thu, Aug 3, 2023 at 10:20 AM

To: AFL FOIA <foia@aflegal.org>

Good morning Jacob,

Message received. We will have our analyst reach out.

-Office of Information Affairs

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Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
To: AFL FOIA <foia@aflegal.org>
Cc: Jacob Meckler <jacob.meckler@aflegal.org>

Fri, Aug 4, 2023 at 12:07 PM

Good Afternoon Mr. Meckler,

Regarding your FOIA requests, the scope of your requests is too broad. In our phone calls, some of the issues we discussed were that the searches would likely pull a voluminous number of records which we anticipate will be largely withheld, and we do not have the ability to perform a broad, agency-wide search of all email accounts at the USDA. We would like to narrow the request to specific record custodians, if possible. After our last phone call, you and Mr. Michael Ding were going to consider which record custodians you wanted to have searched and get back to me.

We have not heard back from you on this matter, and your request has been on hold pending clarification of which custodians to search. Your request is broad, so please understand that we are attempting to convert your request into a search that we can reasonably undertake. If we can narrow your search to a targeted subject and custodians, we can proceed with processing your request. I would be happy to discuss your requests at your convenience.

Best,



Kyle Kemper, Esq.
FOIA Analyst, Attorney-Contractor
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#4049-B
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☎ 202-378-1074 (Desk)
✉ Kyle.Kemper@USDA.gov

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AFL FOIA <foia@aflegal.org>

Fri, Aug 4, 2023 at 12:14 PM

To: "Kemper, Kyle (CTR) - OGC, DC" <Kyle.Kemper@usda.gov>
Cc: Jacob Meckler <jacob.meckler@aflegal.org>

Kyle,

Apologies, I was under the impression that you were waiting for some colleagues from the front office to get back to you with proposed custodians to search (I believe you'd said it should only be a few weeks at the time), then we would review those custodians and decide how to move forward.

Did you ever hear back from the front office regarding their suggested searches?

Jacob Meckler

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Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
To: AFL FOIA <foia@aflegal.org>

Fri, Aug 4, 2023 at 12:57 PM

Jacob,

I did receive some additional information, and that was the subject of our call around March 24th.

As a general recap, IRA Section 22007 touches a number of USDA programs and initiatives, and thereby could reach any number of employees. We discussed limiting your request to custodians in the Office of the General Counsel (OGC) and Office of the Secretary (OSEC), and/or political appointees. Even within those parameters, searches for all records referencing Section 22007 is likely to produce a voluminous number of records, so we were hoping to limit it to a defined set. We also discussed using the same list of custodians to be determined for 2023-OGC-00080-F for the search for 2023-OGC-00081-F. At which point, you and Mr. Ding were going to consider which custodians you wanted to limit it to.

For 2023-OGC-00081-F, I did receive additional information that one employee in OGC's front office may have communications with the companies you listed. However, you indicated in our first phone call that, for this request, you were interested in seeing any lobbying efforts conducted by these organizations in relation to the implementation of Section 22007, and this employee's involvement (if any) would have been related to cooperative agreements with those companies, and would not pertain to any lobbying efforts. Thus, I believe it is unlikely a search of that employee would capture the kind of information you are seeking, but we could search that employee if you would like.

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AFL FOIA <foia@aflegal.org>
To: "Kemper, Kyle (CTR) - OGC, DC" <Kyle.Kemper@usda.gov>

Fri, Aug 4, 2023 at 1:08 PM

Kyle,

We would be willing to move forward limiting the searches to the OGC, the OSEC, the political appointees, CRLELD, FAIR, and the GRLD. We would also like to ensure you include the individual you mentioned from the OGC front office who had communications with the listed entities. If this still returns an unreasonable number of records, we would be willing to limit the search further, but at that stage we would like an estimate of the records volume to aid us in further scoping.

Thanks,

Jacob

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Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
To: AFL FOIA <foia@aflegal.org>

Fri, Aug 4, 2023 at 1:30 PM

Great, thank you, that does help narrow it down some. I have just a couple follow up questions; do you have 10 minutes for a phone call? I can be reached at 202-378-1074

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Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
To: AFL FOIA <foia@aflegal.org>

Fri, Aug 4, 2023 at 1:59 PM

Hi Jacob,

Thanks for speaking with me. In our phone call, we agreed to amend your requests as follows:

For both requests, we will search all political appointees and schedule C employees in the OGC and OSEC. Additionally, we will search all career employees in:

- the OGC Front Office (including the one employee I mentioned below),
- CRLELD,
- FAIR,
- GLRD.
- OSEC

For 2023-OGC-00080-F, the date range of the search is August 1, 2022, to August 4, 2023.

For both requests, you agreed to waive subscription news service emails, except where those emails have been forwarded or commented on.

I will conduct the searches and assess how voluminous the results of those searches are. In the event the results are voluminous, I will reach back out and we will discuss ways to further target the information you are seeking.

Please let me know if the amendment above does not accurately reflect your understanding of our conversation. Otherwise, I will proceed as described above.

Thanks,

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AFL FOIA <foia@aflegal.org>
To: "Kemper, Kyle (CTR) - OGC, DC" <Kyle.Kemper@usda.gov>

Thu, Feb 1, 2024 at 1:50 PM

Kyle,
I just wanted to reach back out and get a status update on this request, as it is still of interest to us.

Thank you,
Jacob Meckler
America First Legal Foundation

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Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
To: AFL FOIA <foia@aflegal.org>

Thu, Feb 1, 2024 at 1:58 PM

Good Afternoon Jacob,

Thanks for following up. The Departmental FOIA Office is working diligently to complete your request. Please be assured that your FOIA request is being processed as quickly as possible.

I will work to formulate an interim response and provide records on a rolling basis, as soon as possible. I'll provide another update when I have a projection for that interim.

Thanks,



Kyle Kemper, Esq.
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AFL FOIA <foia@aflegal.org>
 To: "Kemper, Kyle (CTR) - OGC, DC" <Kyle.Kemper@usda.gov>

Thu, Feb 1, 2024 at 2:05 PM

Can you provide an estimate of when we should expect to see the first records? These are increasingly becoming a priority for us, given how long the requests have been outstanding.

Thank you,
 Jacob Meckler
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AFL FOIA <foia@aflegal.org>
 To: "Kemper, Kyle (CTR) - OGC, DC" <Kyle.Kemper@usda.gov>

Tue, Feb 13, 2024 at 11:15 AM

Kyle,
 Can you provide an estimate on these requests? The requests at issue were submitted in November of 2022 (466 days ago). As per USDA's latest FOIA report (available [here](#) at page 31-32), complex requests are averaging about 199 days, with a median time of 55 days. While we certainly understand that there is a backlog, we're hoping to get some concrete answers soon on when we should expect to see records.

Thank you,
Jacob Meckler
America First Legal Foundation

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Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
To: AFL FOIA <foia@aflegal.org>

Tue, Feb 13, 2024 at 3:45 PM

Good Afternoon,

Thanks for reaching out. The searches returned a broad array of records and we are working diligently to process your records. Please be assured that your FOIA request is being processed as quickly as possible. I have reached out to our search team to ascertain the full breadth of the records, and will follow up with you shortly when I have a sense of the full volume to be processed. I will also prepare rolling, interim responses as they are ready to get the records to you as soon as possible.

Thanks,



Kyle Kemper, Esq.
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From: AFL FOIA <foia@aflegal.org>
Sent: Tuesday, February 13, 2024 11:16 AM
To: Kemper, Kyle (CTR) - OGC, DC <Kyle.Kemper@usda.gov>
Subject: [External Email]Re: 2023-OGC-00080-F and 2023-OGC-00081-F Action Needed

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