



March 27, 2019

Sent via email

Steven Aftergood
Federation of American Scientists
1112 16th Street NW
Suite 400
Washington, DC 20036

Email: saftergood@fas.org

Dear Mr. Aftergood,

This is the final response to your Research, Education, and Economics (REE) Freedom of Information Act (FOIA) request dated August 24, 2018, for a copy of a 2016 report that was performed for USDA by the JASON advisory panel, entitled New Techniques for Evaluating Crop Production.

Your request was received in this office on August 24, 2018 and assigned FOIA No. 2018-REE-05800-F.

REE located one document, totaling 133 pages, in response to your request. Following a review of the responsive record, REE has determined that the document is withheld in its entirety pursuant to FOIA Exemption 5, U.S.C. § 552(b)(5).

Below is an explanation of the information that has been withheld.

FOIA Exemption 5

FOIA Exemption 5 protects from disclosure those “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” One of the frequently invoked FOIA Exemption 5 privileges is the deliberative process privilege.

To fall within FOIA’s deliberative process privilege, the records must be both pre-decisional and deliberative; the records must precede the adoption of an agency policy and include the opinions, recommendations, or deliberations on a legal or policy matter. Furthermore, when an agency record is generated by outside consultants as part of the deliberative process, and it was solicited by the agency, an agency may determine that the document meets the FOIA “intra-agency” threshold.

In this instance, REE is withholding, under the deliberative process privilege, pre-decisional information and recommendations from the JASON advisory panel. As you know, JASON is group of private sector individuals contracted to provide advice and recommendations to the federal government.

By withholding this information, REE is protecting the integrity of the agency's decision-making process and ensuring no inhibition of free and frank exchange between agency personnel. REE is also ensuring against the premature disclosure of proposed policy, which could if released, cause confusion to the public regarding the agency's policy positions.

You may administratively appeal this determination by writing to the Administrator, ARS, USDA, Room 302-A, Jamie L. Whitten Federal Building, 14th & Independence Avenue, SW, Washington, DC 20250. Your appeal must be postmarked within 90 days of the date of the response to your request. The phrase "FOIA Appeal" should be placed in capital letters on the front of the envelope containing the appeal.

If you have any questions or would like to discuss any aspect of your request, please contact the REE FOIA Office at 202-504-1655 or electronically at REEfoia@ars.usda.gov. You may also reach our FOIA Public Liaison or FOIA Requester Service Center at 301-504-1743 or REEfoia@ars.usda.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about its FOIA mediation services. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; ogis@nara.gov; 202-741-5770; toll free at 1-877- 684-6448; or facsimile at 202-741-5769.

Sincerely,

JD Wyllie

JD Wyllie
Director
Office of Communications