

# *Memorandum*

To: Janice Shipman/Debbie Leilich  
From: Gloria Benson  
Procurement Tech  
Date: December 7, 1999  
Subject: FOIA Request

The enclosed was just received by this office. Please issue a FOIA control number.

# FAX TRANSMISSION

**DENNIS JOHNSON & COMPANY, P.C.**

1560 SOUTH ALBION STREET, SUITE 812

DENVER, COLORADO 80222-4046

(303) 504-0688

FAX: (303) 504-0853

**To:** Kathyn Linde

**Date:** December 7, 1999

**Fax #:** (612) 370-2106

**Pages:** Two, including this cover sheet.

**From:** Dennis Johnson

**Subject:** FOIA REQUEST

COMMENTS:

DENNIS JOHNSON & COMPANY, P.C.

CERTIFIED PUBLIC ACCOUNTANTS  
1660 SOUTH ALBION STREET • SUITE 812  
DENVER, COLORADO 80222

(303) 504-0688  
FAX (303) 504-0853  
FOIA REQUEST

00-107

ABS - Minneapolis

mm

12-10-99  
1-11-00

December 7, 1999

Ms. Kathryn Linde  
Contracting Officer  
USDA, APHIS, MRP BS  
Butler Square., 5th Floor  
Minneapolis, MN 55403

Re: Freedom of Information Act Request

Dear Ms. Linde:

Please furnish the undersigned the following Information pursuant to the Freedom of Information Act:

Copy of original (before amendment issued after due date of proposal) proposal submitted by McBride, Lock and Associates in response to (RFP) 75 -APHIS-99 for audit services for Lisle Milk Marketing Order Program

Copy of final proposal submitted by McBride, Lock and Associates in response to (RFP) 75-APHIS-99 for audit services for the Lisle IL Milk Market Order Program.

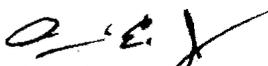
Evaluation score sheets re: (RFP) 75-M-APHIS-99

Names and titles of members of evaluation team for (RFP) 75-M-APHIS-99

Your office's goals, policies, etc. re; contracting with small and disadvantaged businesses.

I will pay all costs of duplication in accordance with Act and the regulations of your agency. I would appreciate a response within the 10 working days prescribed by law. If for any reason your decision is to deny me any of the requested information, I request precise information as to why the requested information has been denied, as well as an explanation of the appeal procedure.

Sincerely

  
Dennis E. Johnson



United States  
Department of  
Agriculture

Marketing and  
Regulatory  
Programs

Animal and  
Plant Health  
Inspection  
Service

Legislative and  
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Freedom of  
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4700 River Road  
Unit 50  
Riverdale, MD  
20737-1232

Dennis E. Johnson  
Dennis Johnson & Company, P.C.  
1660 South Albion Street  
Suite ~~812~~ 712  
Denver, CO 80222

FEB 8 2007

Dear Mr. Johnson:

This is in response to your December 7, 1999 Freedom of Information Act (FOIA) request for certain information pertaining to proposal number (RFP) 75-APHIS-99. You also requested information regarding contracting with small and disadvantaged businesses. Your request was received in this Office on December 10, 1999 and assigned case number FOIA 00-107. We apologize for the delay of this response.

Agency employees conducted a thorough search of their files and located 73 pages of responsive records. However, the original proposal consisting of 34 pages is being withheld in its entirety under FOIA Exemption 3, 5 U.S.C. § 552(b)(3). This exemption prohibits the release of information specifically from disclosure by statute, 41 U.S.C. 253b(m). Further, the members of the evaluation team for this proposal were William Newell, Tevis Smith and Eugene Krueger, whose titles we do not have. Finally, please visit USDA's website at <http://www.usda.gov/procurement/business/index.html> to obtain information regarding contracting with small and disadvantaged businesses.

You may appeal our denial determination. If you choose to appeal, your appeal must be in writing and must be sent within 45 days of the date of this letter to:

Administrator  
Animal and Plant Health Inspection Service  
Ag Box 3401  
Washington, D.C. 20250-3401

Please refer to FOIA 00-107 in your appeal letter and add the words "FOIA Appeal" to the front of the envelope. To assist the Administrator in reviewing your appeal, provide specific reasons why you believe modification of the determination is warranted.

Enclosed is a CD-ROM containing 39 pages of releasable material and copies of this request, this response letter, and Adobe® Acrobat® Reader™, which is needed to view the responsive records. By opening rp505enu.exe and following the on-screen instructions, you will install Adobe Reader. After the installation, the Adobe Reader should render the PDF files correctly.



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APHIS is an agency of USDA's Marketing and Regulatory Programs  
An Equal Opportunity Provider and Employer

Dennis E. Johnson  
FOIA 00-107

2

If you have any questions, please contact Ms. Reet Kaseoru of my staff at (301) 734-7251.

Sincerely,



Lesia M. Banks, MBA

Director

Freedom of Information and Privacy Act Staff  
Legislative and Public Affairs

Enclosure

\*\*\*\*\*  
\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO 0638  
CONNECTION TEL 91612 370 2106  
SUBADDRESS  
CONNECTION ID ABS-CONTRACTING  
ST. TIME 12/10 02:48  
USAGE T 00'38  
PGS. SENT 3  
RESULT OK



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Plant Health  
Inspection  
Service

Legislative and  
Public Affairs

TELEFAX MESSAGE

DATE : December 10, 1999 PAGES: 3 (including cover sheet)  
TO : Jeanne Lewis  
FAX NO : (612) 370-2106  
SUBJECT : FOIA Request  
REMARKS: Please process FOIA 00-107.

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United States  
Department of  
Agriculture

Animal and  
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Legislative and  
Public Affairs

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TO : Jeanne Lewis

FAX NO : (612) 370-2106

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\_\_\_\_\_  
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FROM : Janice Shipman/Debbie Leilich  
**USDA-APHIS-LPA-FREEDOM OF INFORMATION  
AND RESOURCE MANAGEMENT**

LOCATION : 4700 River Road, Unit 50  
Riverdale, MD 20737

FAX NUMBER : (301) 734-5941  
(301) 734-8296

2-10-99

TO: ABS:CONTRACTING: JEANNE LEWIS REQUESTER: DENNIS E JOHNSON

REQUEST #: FOIA-00-107 DUE TO FOIA: 12-21-99

Attached is a FOIA request for documents maintained by your office. Please conduct a thorough search for all responsive records, including files that may be kept in locations other than your office.

Please complete this page and return it with one single-sided copy of the responsive records to: **Teresa LaCovey, FOIA Office  
Unit 50, Suite 4B09, Space 4A64**

**DO NOT STAPLE THE DOCUMENTS.**

Search time\* (clerical): \_\_\_\_\_  
Search time\* (professional): \_\_\_\_\_  
\*Does not include photocopying time

Review time (professional): \_\_\_\_\_

Search Conducted by:

Name	Title	Office and Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____

Missing Document Explanation/Special Notes:

FOIA Liaison's Initials & Date: \_\_\_\_\_



United States  
Department of  
Agriculture

September 16, 2005

Animal and  
Plant Health  
Inspection  
Service

Mr. Dennis E. Johnson  
Dennis Johnson and Company, P.C.  
1660 South Albion Street  
Suite 812  
Denver, CO 80222

Legislative and  
Public Affairs

Re: FOIA 00-107

Freedom of  
Information

Dear Mr. Johnson:

4700 River Road  
Unit 50  
Riverdale, MD  
20737-1232

This is in regard to your Freedom of Information Act request dated December 7, 1999, in which you requested information regarding (RFP) 75-APHIS-99. We regret to inform you that your request is still pending in this Office.

Because the lapse of time may have changed your need for the information you originally requested, I write to ask whether you are still interested in receiving the responsive documents. I regret that we have been unable to reply sooner. If you are still interested in receiving the documents, please sign this letter below and return it in the enclosed self-addressed, postage paid envelope, and we will complete the processing of your request as soon as possible.

If you are no longer interested in the documents, you need do nothing. If we have not received this letter in 30 calendar days, we will assume you are no longer interested in receiving the documents and your case will be closed. I appreciate your patience and understanding.

Sincerely,

Lesia M. Banks, MBA  
Director  
Freedom of Information and Privacy Act Staff  
Legislative and Public Affairs

I am still interested in receiving the documents that are responsive to my request.

Signature \_\_\_\_\_

Date \_\_\_\_\_

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September 16, 2005

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4700 River Road  
Unit 50  
Riverdale, MD  
20737-1232

Mr. Dennis E. Johnson  
Dennis Johnson and Company, P.C.  
1660 South Albion Street  
Suite ~~812~~ 712  
Denver, CO 80222

Re: FOIA 00-107

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Sincerely,

Lesia M. Banks, MBA  
Director  
Freedom of Information and Privacy Act Staff  
Legislative and Public Affairs

I am still interested in receiving the documents that are responsive to my request.

Signature

Date Sept. 23, 2005

Enclosure



# APHIS Minneapolis Business Site

## Fax Cover Sheet

United States  
Department of  
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Animal and  
Plant Health  
Inspection  
Service

Marketing and  
Regulatory Programs -  
Business Services

Administrative  
Services  
Division

Butler Sq., 5th Floor  
100 North Sixth St.  
Minneapolis, MN  
55403

To: TERESA LA COVEY

From: DAVE ASHER

Date: 7-31-02

Subject: FOIA 00-107

No. of Pages (incl cover) 5

Comments: Pgs 21-24

AS REQUESTED

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

David Asher  
612-370

2117

Signed  
Kathleen  
Lund

Phone

Fax

Contracted awarded  
12/1/99



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An Equal Opportunity Employer

00-107

Dennis Johnson & Company, P.C.

1660 S. Albion Street, Suite 712

Denver, Colorado 80222-4045

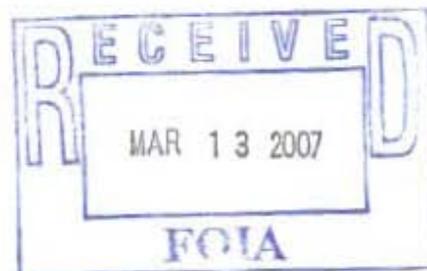
(303) 504-0688

Fax (303) 504-0853

March 7, 2007

Administrator  
Animal and Plant Health Inspection Service  
Ag Box 3401  
Washington, D.C. 20250-3401

Re: FOIA 00-107



Dear Sir or Madam:

I wish to appeal the denial of my request to receive the original winning proposal related to RFP 75-APHIS-99. The denial of this request, more than six years after its submission, flies in the face of the original intent of the Freedom of Information Act. The information requested does not fall under FOIA Exemption 3 (5 U.S.C. §552(b)(3)) because release of the requested material is not prohibited by 41 U.S.C. 253b(m). Specifically, item (2) of 41 U.S.C. 253b(m) states that the prohibition on release of contractor proposals does not "apply to any proposal that is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal." See exhibit 1. Proposals are referenced in Federal contracts. That is why copies of successful proposals are routinely released.

Please instruct the Freedom of Information and Privacy Act Staff to forward the information requested.

Sincerely

Dennis E. Johnson

MAR 13 REC'D

EXHIBIT 1

**(l) Agency actions on protests**

If, in connection with a protest, the head of an executive agency determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation, the head of such executive agency -

**(1)**

may take any action set out in subparagraphs (A) through (F) of subsection (b)(1) of section 3554 of title 31; and

**(2)**

may pay costs described in paragraph (1) of section 3554(c) of such title within the limits referred to in paragraph (2) of such section.

**(m) Prohibition on release of contractor proposals****(1)**

Except as provided in paragraph (2), a proposal in the possession or control of an executive agency may not be made available to any person under section 552 of title 5.

**(2)**

Paragraph (1) does not apply to any proposal that is set forth or incorporated by reference in a contract entered into between the agency and the contractor that submitted the proposal.

**(3)**

In this subsection, the term "proposal" means any proposal, including a technical, management, or cost proposal, submitted by a contractor in response to the requirements of a solicitation for a competitive proposal

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Information

4700 River Road  
Unit 50  
Riverdale, MD  
20737-1232

Dennis Johnson & Company, P.C.  
1660 S. Albion Street, Suite 712  
Denver, Colorado 80222-4045

Dear Mr. Johnson:

This is in response to your Freedom of Information Act (FOIA) appeal under FOIA number 00-107 which was received in this office on March 13, 2007. Your appeal request was based on records relating to proposal RFP 75-APHIS-99. (copy enclosed).

Our records indicate that further processing may be necessary. Frequently, we find that requesters' needs for records change. Please let us know if you wish to continue with the FOIA appeal dated March 7, 2007, that was filed with the Animal and Plant Health Inspection Service (APHIS). I regret that we have been unable to reply sooner and appreciate your patience.

Please indicate below if you wish to continue your appeal or wish to withdraw by checking one of the boxes below:

Withdraw appeal

Continue appeal

Please return with a box checked to the address below no later than 15 days from the date of this correspondence:

Garfield O. Daley  
APHIS Acting FOIA Director  
4700 River Road, Unit 50  
Riverdale, MD 20737-1232

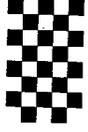
Or you may email me your response no later than 15 days from the date of this correspondence at: [Garfield.O.Daley@aphis.usda.gov](mailto:Garfield.O.Daley@aphis.usda.gov) or by fax at: 301-734-5941.

If we do not receive a response from you regarding your decision of this appeal, our office will administratively close the request on November 27, 2007.

Sincerely,

Garfield O. Daley  
Acting FOIA Director  
Freedom of Information & Privacy Act Staff  
Legislative and Public Affairs

Enclosure



NOV - 6 2007

United States Department of Agriculture

Marketing and Regulatory Programs

Animal and Plant Health Inspection Service

Legislative and Public Affairs

Freedom of Information

4700 River Road Unit 50 Riverdale, MD 20737-1232

Dennis Johnson & Company, P.C. 1660 S. Albion Street, Suite 712 Denver, Colorado 80222-4045

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Garfield O. Daley APHIS Acting FOIA Director 4700 River Road, Unit 50 Riverdale, MD 20737-1232

Or you may email me your response no later than 15 days from the date of this correspondence at: [Garfield.O.Daley@aphis.usda.gov](mailto:Garfield.O.Daley@aphis.usda.gov) or by fax at: 301-734-5941.

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Garfield O. Daley Acting FOIA Director Freedom of Information & Privacy Act Staff Legislative and Public Affairs

Enclosure