



**DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER**  
**Richmond VA Medical Center**  
**1201 Broad Rock Blvd.**  
**Richmond, VA 23249**

In Reply Refer To: 652 / 00P  
FOIA request 19-08374-F

July 8, 2019

Kerri O'Brien  
WRIC-TV  
301 Arboretum Place  
Richmond, VA 23236

Via email [kobrien@wric.com](mailto:kobrien@wric.com)

Dear Ms. O'Brien:

This letter is to acknowledge your June 10, 2019 request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, for a copy of the following information:

“(1) Copies of all contracts, invoices, purchase orders as well as records of acquisition and disposition for all canines by Hunter Holmes VA Medical Center between January 1, 2019 and June 7, 2019”

“(2) delivery record/receipt of all dogs delivered to McGuire from Marshall Bioresources on June 4, 2019”

Your FOIA request was received in my office on June 11, 2019. Your FOIA request was assigned the tracking number at the top of this letter. Please include the tracking number in all future communications concerning this FOIA request. In addition, we have placed your request in the simple processing category.

**Fee determination**

The FOIA, 5 U.S.C. § 552(A)(4)(a)(II), places all FOIA requesters in one of three categories for fee purposes. The three categories of FOIA requesters are commercial use requesters; educational institutions, noncommercial scientific institutions, and representative of the news media; and all other requesters. I have determined your request to be a news media request.

As a news media requester, VA FOIA implementing regulations found at 38 C.F.R. § 1.561 state that the requester will be charged for the cost of reproduction of the records only, excluding the charges for the first 100 pages. 38 C.F.R. § 1.561(d)(2) states when a duplication fee applies, the FOIA Officer will charge a fee of 15 cents per one-sided page for a paper photocopy of a record and for other forms of duplication,

including electronic copies, the FOIA Officer will charge the direct costs of that duplication. 38 C.F.R. § 1.561(e)(5) states whenever a total fee calculated under (d) of this section is less than \$25, no fee will be charged. Moreover, the news media requester will be charged the cost of reproduction of the records even if there is ultimately no disclosure of records.

The responsive records totaled four (4) pages and calculated fees were less than \$25.00. No fees are being charged for this FOIA request. Please be advised that the Richmond VA Medical Center FOIA Office reserves the right to assess fees as appropriate under the FOIA on any future FOIA requests.

### **Search for records**

After conducting a reasonable search, we have concluded that the Richmond VA Medical Center has four (4) records responsive to your request. Courts have determined the reasonableness of an agency's search can depend on whether the agency properly determined where responsive records were likely to be found and searched those locations. [See laco v. IRS, No. 98-C-0466, 1999 WL 675322, at \*4 (E.D. Wis. July 23, 1999)(recognizing that agency "diligently searched for the records requested in those places where [agency] expected they could be located")].

The records search was assigned to the Research Service at the Richmond VA Medical Center. Staff within the Richmond VA Medical Center's Research Service who are familiar with the record keeping system conducted the search and were able to locate the four (4) pages enclosed. The search was not directed to any other service or department at the Richmond VA Medical Center as the Research Service at the Richmond VA Medical Center is responsible for maintaining records pertaining to research.

Please be advised that we were not able to locate records pertaining to your request for "contracts" and "purchase orders" in item #1. We are issuing a "no records" response for these portions of the request.

### **FOIA Exemptions**

After careful review of these pages, we are granting your request in part. All records or information compiled in personnel and medical files and similar files which, if disclosed, could reasonably be expected to constitute an unwarranted invasion of personal privacy have been withheld under FOIA Exemption 6, [5 U.S.C. § 552 (b)(6)]. Specifically, the information I am withholding, as indicated on the enclosed documents, under FOIA Exemption 6, consists of the following information:

- Name and address of the seller or donor
- Dealer's license number
- Name and address of company or firm
- Name and business address of truck driver

- ORD number
- Order numbers and customer PO numbers
- Name, address, and federal ID number of owner
- Address of the McGuire Research Center
- Name of investigator

While generally civilian federal employees who are not involved in law enforcement have a diminished expectation of privacy in their names and other information related to their federal employment, they do, retain a significant privacy interest under certain circumstances, such as in instances where the release of their information could represent a threat to their well-being or harassment. VHA has received numerous concerns for physical safety and threats expressed by providers and staff working in animal research. VHA has an obligation to protect its employees to the greatest extent possible. The release of personal information of those involved in conducting animal research would harm the privacy interests of VA personnel by exposing them to potential attacks and harassment because it would essentially reveal who they are and where they work. The interest protected by exemption 6, i.e. privacy, is inextricably linked with the employees' expectation to work in a safe environment, one free from harassment, threatening behavior, and potential physical attacks.

The coverage of FOIA Exemption 6 is absolute unless the FOIA requester can demonstrate a countervailing public interest in the requested information by demonstrating that the individual is in a position to provide the requested information to members of the general public and that the information requested contributes significantly to the public's understanding of the activities of the Federal government. Additionally, the requester must demonstrate how the public's need to understand the information significantly outweighs the privacy interest of the person to whom the information pertains. Upon consideration of the materials provided, I have not been able to identify a countervailing public interest of sufficient magnitude to outweigh the privacy interest in this case. The individuals associated with this information have a personal privacy interest in information that outweighs any public interest served by disclosure of their identities under FOIA. Any potential general public interest in the agency's conduct of its business is satisfied by our disclosure that appropriate personnel conducted their duties as assigned and as documented in the information released to you and as outlined above. It is commonly held that public servants retain a privacy interest in their identity, particularly when release of their identities could subject them to annoyance or harassment. See New England Apple Council, Inc. v. Donovan, 725 F.2d 139 (1st Cir. 1984); Cal-Trim, Inc. v. I.R.S., 484 F.Supp 2d 1021 (D. Ariz. 2007); Van Mechelen v. U.S. Department of the Interior, No. 05-5393, 2005 WL 3007121 (W.D. Wash. Nov. 9, 2005), and In Defense of Animals v. Department of Health and Human Services, No. Civ. 99-3024 (TFH, 2008). Consequently, I am partially denying your request under FOIA Exemption 6, 5 U.S.C. § 552 (b)(6).

Additionally, we have withheld the address of the McGuire Research Center pursuant to FOIA exemption 7F [5 U.S.C. § 552 (b)(7)(f)] and FOIA exemption 6 (Amuso v. DOJ,

No. 07-1935, 2009 WL 535965 (D.D.C. March 2009)) “by its terms, the exemption . . . may be invoked to protect ‘any individual’ reasonably at risk of harm”). VA’s proactively takes steps to prevent criminal activity and to maintain security. Accordingly, the location of such animal research facilities has been redacted from the disclosed documents. As Justice Alito opined in Milner v. Dept. of Navy (131 S.Ct. 1259 (2011)), information compiled for a law enforcement purpose “encompasses information used to fulfill official security and crime prevention duties” (Id. at 1772). “Similarly, federal building plans and related information—which may have been compiled originally for architectural planning or internal purposes—may fall within Exemption 7 if that information is later compiled and given to law enforcement officers for security purposes”.

### **Appeal Rights**

This FOIA request was processed by the undersigned. If you disagree with the decision to withhold information under FOIA Exemption 6 and Exemption (b)(7)(f), as well as the “no-records” response, please be advised you may appeal to:

Office of the General Counsel (024)  
Department of Veterans Affairs  
810 Vermont Avenue, N.W.  
Washington, D.C. 20420  
Email: [ogcfoiaappeals@va.gov](mailto:ogcfoiaappeals@va.gov)

If you choose to file an appeal, your appeal must be postmarked or electronically transmitted no later than ninety (90) calendar days from the date of this letter. Please include a copy of this letter with your written appeal and clearly state why you disagree with the determinations set forth in this response.

In addition to filing an appeal with the Office of General Counsel regarding my determination, you may also seek assistance and/or dispute resolution services regarding your FOIA request from VHA’s FOIA Public Liaison and or Office of Government Information Services (OGIS) as provided below:

VHA FOIA Public Liaison:  
Email Address: [vhafoia2@va.gov](mailto:vhafoia2@va.gov)  
Phone Number: (877) 461-5038

Office of Government Information Services (OGIS)  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: (202) 741-5769  
Mailing address: Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740-6001

If you should have any further questions, please feel free to contact me at 804-675-5265 or via email at [VHARICFOIA@va.gov](mailto:VHARICFOIA@va.gov).

Sincerely,

A handwritten signature in black ink that reads "Emily Fuemmeler". The signature is written in a cursive, flowing style.

Emily Fuemmeler  
Privacy/Freedom of Information Act Officer

