

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DEMOCRACY FORWARD FOUNDATION,

Plaintiff,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

Civil Action No. 25-4424 (JEB)

ANSWER

Defendant, the United States Department of Health and Human Services (“HHS” or “Defendant”) by and through undersigned counsel, hereby responds to Plaintiff’s complaint alleging violations of the Freedom of Information Act (“FOIA”) (ECF No. 1).

RESPONSES TO NUMBERED PARAGRAPHS OF THE COMPLAINT

Defendant denies all allegations in the Complaint, including the relief sought, except as specifically admitted in this Answer. To the extent the Complaint refers to or quotes from external documents, statutes, or other sources, Defendant may refer to such materials for their accurate and complete contents in response; however, Defendant’s responses are not intended to be, and should not be construed to be, an admission that the cited materials are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this, or any other, action; or (c) admissible in this, or any other, action. Defendant responds to the separately numbered paragraphs and prayer for relief in the Complaint as follows.

The first unnumbered paragraph consists of Plaintiff's characterization of this action, to which no response is required. To the extent a response is deemed required, Defendant admits only that Plaintiff purports to bring this lawsuit pursuant to FOIA.

Jurisdiction and Venue¹

1. Paragraph 1 contains conclusions of law regarding jurisdiction to which no response is required. To the extent a response is deemed required, Defendant admits that this Court has jurisdiction over this action, subject to the terms and limitations of FOIA.

2. Paragraph 2 contains Plaintiff's conclusions of law regarding venue to which no response is required. To the extent a response is deemed required, Defendant admits that venue is proper in this district for a properly stated FOIA claim.

Parties

3. Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations in Paragraph 3.

4. Defendant admits it is a federal agency subject to FOIA and headquartered in Washington, DC. The remaining allegations in Paragraph 4 consist of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant lacks sufficient knowledge or information to form a belief about the truth of the allegations.

Facts

5. To the extent the allegations seek to provide background facts in support of allegations of public interest, Defendant admits there may be some public interest in the records

¹ For ease of reference, Defendant replicates the headings contained in the Complaint. Although Defendant believes that responses to the headings in the Complaint are not required, to the extent a response is deemed required and to the extent those headings or subheadings contained in the Complaint or this Answer could be construed to contain factual allegations, any such allegations are denied.

sought but presently lacks knowledge or information sufficient to form a belief as to the existence or extent of any public interest, including as compared to any countervailing interests. To the extent the allegations in this paragraph are alleged for other purposes, they do not set forth claims of relief or aver facts in support of a claim, and thus, the Court should strike them as immaterial and impertinent matters pursuant to Rule 12(f).

6. To the extent the allegations seek to provide background facts in support of allegations of public interest, Defendant admits there may be some public interest in the records sought but presently lacks knowledge or information sufficient to form a belief as to the existence or extent of any public interest, including as compared to any countervailing interests. To the extent the allegations in this paragraph are alleged for other purposes, they do not set forth claims of relief or aver facts in support of a claim, and thus, the Court should strike them as immaterial and impertinent matters pursuant to Rule 12(f).

7. Defendant admits only that Plaintiff submitted several FOIA requests to HHS. Defendant respectfully refer the Court to a copy of those requests for a complete and accurate statement of their contents and denies the allegations to the extent they are inconsistent therewith.

Decision-Making Process Request

8. Paragraph 8 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

9. Paragraph 9 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

10. Defendant admits.

Name Change Communications Request

11. Paragraph 11 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

12. Paragraph 12 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

13. Defendant admits.

Key Terms Communications Request

14. Paragraph 14 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

15. Paragraph 15 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

16. Defendant admits.

Guidance Request

17. Paragraph 17 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

18. Paragraph 18 consists of Plaintiff's characterization of its FOIA request. Defendant respectfully refers the Court to a copy of that request for a complete and accurate statement of its contents and denies the allegations to the extent they are inconsistent therewith.

19. Defendant admits.

Exhaustion of Administrative Remedies

20. Paragraph 20 contains conclusions of law to which no response is required. To the extent a response is deemed required, Defendants admit only that it has not issued a response to Plaintiff's FOIA requests as of the date of the Complaint.

CLAIM FOR RELIEF

Count 1 (Violation of FOIA, 5 U.S.C. § 552)

21. Defendant incorporates by reference its responses to Paragraphs 1 through 20 as if fully restated herein.

22. Paragraph 22 contains conclusions of law, to which no response is required. To the extent a response is deemed required, Defendants deny.

REQUEST FOR RELIEF

The remainder of Plaintiff's Complaint contains Plaintiff's request for relief to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief requested in this section, elsewhere in the Complaint, or to any relief whatsoever.

DEFENSES

Defendant respectfully requests and reserves the right to amend, alter, and supplement the defenses contained in this Answer as the facts and circumstances giving rise to the Complaint become known to it through the course of the litigation.

First Defense

To the extent the Complaint alleges background facts unnecessary to the consideration of Defendant's response to FOIA requests at issue, the Complaint violates Rule 8(a)(2) by alleging

information that is unnecessary to a “short and plain” statement of the claim. The Court should strike all such immaterial and impertinent matters pursuant to Rule 12(f). *See Mich. Immigr. Rts. Ctr. v. Dep’t of Homeland Sec.*, Civ. A. No. 16-14192, 2017 WL 2471277, at *3 (E.D. Mich. June 8, 2017) (deeming stricken under Rule 12(f) background facts alleged in a FOIA complaint: “In this unique context, requiring Defendants to answer allegations in Plaintiffs’ complaint that they would not otherwise be required to answer, and that are not material to Plaintiffs’ FOIA claim, would prejudice Defendants.”); *Robert v. Dep’t of Just.*, Civ. A. No. 05-2543, 2005 WL 3371480, at *11 (E.D.N.Y. Dec. 12, 2005) (striking allegations of background facts; concluding that plaintiff’s “allegations are irrelevant to the validity of [his] FOIA claims”).

Second Defense

This Court lacks subject matter jurisdiction over any of Plaintiff’s requests for relief that exceed the relief authorized by FOIA. *See* 5 U.S.C. § 552.

Third Defense

Plaintiff is not entitled to compel production of records exempt from disclosure by one or more exemptions enumerated in FOIA. 5 U.S.C. § 552(b).

Fourth Defense

Plaintiff is not entitled to production of non-exempt portions of records that are not reasonably segregable from exempt portions of records.

Fifth Defense

Plaintiff is neither eligible for nor entitled to an award of attorneys’ fees or costs in this action.

Sixth Defense

Defendant’s actions did not violate FOIA or any other statutory or regulatory provision.

Dated: February 17, 2026

Respectfully submitted,

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