

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND  
ETHICS IN WASHINGTON,

*Plaintiff,*

v.

U.S. DEPARTMENT OF DEFENSE,

*Defendant.*

Civil Action No. 21-0424 (KBJ)

**ANSWER**

Defendant the U.S. Department of Defense, by undersigned counsel, respectfully submits this Answer to the Complaint brought by Citizens for Responsibility and Ethics in Washington (“CREW”) pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552a. Defendant denies all allegations in the Complaint, including the relief sought, except as specifically admitted in this Answer.

No answer is required for the Complaint’s introductory paragraphs (Nos. 1 and 2) because it does not set forth a claim for relief or allege facts in support of a claim, but contains only Plaintiff’s characterization of the relief sought in this action. To the extent that an answer is deemed required, Defendant denies the allegations.

**JURISDICTION AND VENUE<sup>1</sup>**

3. Paragraph 3 contains conclusions of law to which no response is required. To the extent a response is required, Defendants admit that this Court has subject matter jurisdiction

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<sup>1</sup> For reference, Defendant replicates the headings and parenthetical subheadings contained in the Complaint herein. Although Defendant believes that no response is required to such headings and subheadings, to the extent a response is deemed required, Defendant denies the allegations contained in such headings and subheadings.

under FOIA, as limited by the relief available under FOIA, and that venue is proper in this district. Defendants otherwise respectfully refers the Court to the cited authorities for a full and accurate statement of their contents.

**PARTIES**

4. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4.

5. With respect to the first sentence of Paragraph 5, Defendant admits that it is an “agency” within the meaning of 5 U.S.C. § 552(f). The remaining statements in Paragraph 5 contains conclusion of law, not allegations of fact, to which no response is required.

**STATUTORY AND REGULATORY BACKGROUND**

6. Paragraph 6 contains conclusions of law and characterizations of federal statutes to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the FOIA statute for a full and accurate statement of its contents.

7. Paragraph 7 contains conclusions of law and characterizations of federal statutes to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the FOIA statute for a full and accurate statement of its contents.

8. Paragraph 8 contains conclusions of law and characterizations of federal statutes to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the FOIA statute for a full and accurate statement of its contents.

9. Paragraph 9 contains conclusions of law and characterizations of federal statutes to which no response is required. To the extent a response is required, Defendants respectfully refer the Court to the FOIA statute for a full and accurate statement of its contents.

**FACTUAL BACKGROUND**

10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10.

11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11.

12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12.

13. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13.

14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14.

15. Defendant admits that it received a FOIA request dated October 21, 2020 from Plaintiff. The remainder of Paragraph 15 characterizes Plaintiff's FOIA request. Defendant respectfully refers the Court to Plaintiff's FOIA request for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

16. Defendant admits that CREW clarified its FOIA request. The remainder of Paragraph 16 characterizes Plaintiff's FOIA request. Defendant respectfully refers the Court to Plaintiff's FOIA request for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

17. Defendant admits that CREW sought a waiver of its fee request. The remainder of Paragraph 17 characterizes Plaintiff's FOIA request. Defendant respectfully refers the Court to

Plaintiff's FOIA request for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

18. Paragraph 18 characterizes Plaintiff's FOIA request. Defendant respectfully refers the Court to Plaintiff's FOIA request for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

19. Defendant admits that CREW sought a waiver of its fee request. The remainder of Paragraph 19 characterizes Plaintiff's FOIA request. Defendant respectfully refers the Court to Plaintiff's FOIA request for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

20. Defendant admits that on October 26, 2020, it requested clarification regarding Plaintiff's FOIA request. The remainder of Paragraph 20 constitutes Plaintiff's characterization of that communication. Defendant respectfully refers the Court to Defendant's October 26, 2020 email for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

21. Defendant admits that CREW responded to Defendant's October 26, 2020 email. The remainder of Paragraph 21 constitutes Plaintiff's characterization of that communication. Defendant respectfully refers the Court to CREW's response for a full and accurate statement of its contents. To the extent Plaintiff's characterization is inconsistent with the FOIA request, Defendant denies the allegations in this paragraph.

22. Admit.

23. Paragraph 23 contains conclusions of law to which no response is required.

**PLAINTIFF'S CLAIM FOR RELIEF**

24. Defendant incorporates its responses to Paragraphs 3 through 23.

25. Paragraph 25 contains conclusions of law to which no response is required. To the extent a response is deemed necessary, Defendant denies the allegations in Paragraph 25.

26. Paragraph 26 contains conclusions of law to which no response is required. To the extent a response is deemed necessary, Defendant denies the allegations in Paragraph 26.

27. Paragraph 27 contains conclusions of law and Plaintiff's characterization of relief to which no response is required. To the extent a response is deemed necessary, Defendant denies the allegations in Paragraph 27.

**REQUESTED RELIEF**

The remainder of the Complaint sets forth Plaintiff's prayer for relief, to which no response by Defendant is required; however, to the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the relief that it seeks or to any relief whatsoever.

Each and every allegation of the Complaint not expressly admitted or denied is hereby denied.

**DEFENSES**

**FIRST DEFENSE**

Plaintiff is not entitled to compel the release of information protected from disclosure by one or more of the exemptions or exclusions to the FOIA.

**SECOND DEFENSE**

This Court lacks subject matter jurisdiction over any of Plaintiff's requests for relief that exceed the relief authorized by FOIA.

**THIRD DEFENSE**

Plaintiff's FOIA request is unreasonably broad and does not reasonably describe the records sought.

Dated: July 6, 2021

Respectfully submitted,

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Acting Chief, Civil Division

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