

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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CITIZENS FOR RESPONSIBILITY)	
AND ETHICS IN WASHINGTON,)	
)	
	Plaintiff,)	
)	
	v.)	Civil Action No. 19-1344 (RBW)
)	
U.S. DEPARTMENT OF STATE, <i>et al.</i> ,)	
)	
	Defendants.)	
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ANSWER TO COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

Defendants, U.S. Department of State (“State”) and the U.S. Agency for International Development (“USAID”), by and through counsel, hereby responds to Plaintiff’s Complaint as follows:

RESPONSES

Defendants respond to the separately numbered paragraphs and prayer for relief contained in the Complaint below. To the extent that any allegation is not admitted herein, it is denied. Moreover, to the extent that the Complaint refers to or quotes from external documents, statutes, or other sources, Defendants may refer to such materials for their accurate and complete contents; however, Defendants’ references are not intended to be, and should not be construed to be, an admission that the cited materials: (a) are correctly cited or quoted by Plaintiff; (b) are relevant to this, or any other, action; or (c) are admissible in this, or any other, action.

Defendants answer as follows:

1. This paragraph contains Plaintiff's characterization of this action, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants deny.

2. This paragraph contains Plaintiff's characterization of the remedies it seeks in this action, which are conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants deny.

Jurisdiction and Venue¹

3. Defendants admit that this Court has subject matter jurisdiction under the Freedom of Information Act ("FOIA"), as limited by the relief available under FOIA, and that venue is appropriate in the District of Columbia. Defendants further admit that they are agencies subject to the FOIA, and that the Court has personal jurisdiction.

Parties

4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph.

5. Defendants admit that State is a federal agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 701. The remaining allegations in this paragraph consist of conclusions of law, to which no response is required. To the extent a response is deemed necessary, Defendants deny pending the completion of State's reasonable search in response to Plaintiff's FOIA request for records subject to the FOIA.

¹ For ease of reference, Defendants refer to Plaintiff's headings and titles, but to the extent those headings and titles could be construed to contain factual allegations, those allegations are denied.

6. Defendants admit that USAID is a federal agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 701. The remaining allegations in this paragraph consist of conclusions of law, to which no response is required. To the extent a response is deemed necessary, Defendants deny and further aver that USAID communicated to Plaintiff in a letter dated June 26, 2019, that USAID had no responsive records.

Factual Background

7. Defendant State admits the allegation in this paragraph that Secretary Pompeo had a call on March 18, 2019, and that the call occurred before multiple, planned trips Secretary Pompeo has made to countries in the Middle East. The remainder of the allegations in this paragraph contain Plaintiff's characterizations to which no response is required.

8. Defendant State lacks sufficient knowledge or information sufficient to form a belief as to the truth concerning the allegations in this paragraph, which are unrelated to Defendants' responses to Plaintiff's FOIA request.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations concerning Plaintiff's intentions contained in this paragraph. Defendant State admits receiving from Plaintiff a FOIA request dated March 19, 2019, and respectfully refers the Court to that request for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

10. This paragraph contains Plaintiff's characterization of a portion of the March 19, 2019 FOIA request, to which no response is required. Defendants respectfully refer the Court to the March 19, 2019 FOIA request for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

11. Defendant State admits receiving a FOIA request from Plaintiff on March 19, 2019, but Defendant State lacks knowledge or information sufficient to form a belief as to the contents of the certified mail receipt alleged in this paragraph because Defendant State does not have possession of it.

12. Defendant State admits that it has not responded to the FOIA request as of the date this answer is being filed.

13. Defendant USAID admits receiving by e-mail from Plaintiff a FOIA request dated March 20, 2019, and respectfully refers the Court to that request for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

14. Defendant USAID admits sending Plaintiff an e-mail on March 20, 2019, and designating Plaintiff's March 20, 2019 FOIA request with tracking number USAID FOIA No. F-00123-19, and respectfully refers the Court to that e-mail for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

15. Defendant USAID respectfully refers the Court to the March 20, 2019 e-mail for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

16. Defendant USAID admits that there were e-mails exchanged between USAID and Plaintiff concerning the March 20, 2019 FOIA request, and respectfully refers the Court to those e-mails for a complete and accurate statement of their contents and denies any allegations inconsistent therewith. Defendant USAID avers that Plaintiff reformulated or narrowed the scope of its March 20, 2019 FOIA request, and that USAID performed a reasonable search based on the modified request.

17. Defendant USAID admits sending Plaintiff an e-mail dated March 22, 2019 relating to Plaintiff's request for a fee waiver, and respectfully refers the Court to that e-mail for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

18. Defendant USAID admits receiving an e-mail dated May 2, 2019 from Plaintiff relating to FOIA Request No. F-00123-19, and respectfully refers the Court to that e-mail for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

19. Defendant USAID admits sending Plaintiff an e-mail dated May 3, 2019, and respectfully refers the Court to that e-mail for a complete and accurate statement of its contents and denies any allegations inconsistent therewith.

20. Defendant USAID denies the allegations in this paragraph, and avers that it sent Plaintiff a final determination in a letter dated June 26, 2019. Defendant USAID respectfully refers the Court to that letter for a complete and accurate statement of its contents.

21. The allegations in this paragraph consist of conclusions of law, to which no response is required. To the extent a response is deemed necessary, Defendants deny

PLAINTIFF'S CLAIMS FOR RELIEF

COUNT 1

(State's Wrongful Withholding of Non-Exempt Records)

22. Defendants repeat and restate the responses to paragraphs 1-21 set forth above.

23. This paragraph contains conclusions of law to which no response is required. To the extent a response is deemed necessary, Defendant State currently lacks sufficient knowledge or information to form a belief as to the truth of the allegation about its possession of or custody over responsive records subject to the FOIA.

24. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants deny.

25. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. To the extent a response is deemed necessary, Defendants deny.

26. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. Defendants further responds by denying that Plaintiff is entitled to the requested relief or to any relief whatsoever.

COUNT 2

(USAID's Wrongful Withholding of Non-Exempt Records)

27. Defendants repeat and restate the responses to paragraphs 1-26 set forth above.

28. This paragraph contains conclusions of law to which no response is required. To the extent a response is deemed necessary, Defendant USAID denies the allegation about its possession of or custody over records subject to the FOIA responsive to Plaintiff's reformulated FOIA request, which superseded the March 20, 2019 FOIA request.

29. Defendant USAID denies.

30. Defendant denies.

31. This paragraph contains conclusions of law, not allegations of fact, to which no response is required. Defendants further responds by denying that Plaintiff is entitled to the requested relief or to any relief whatsoever.

Requested Relief

The remaining portions of Plaintiff's Complaint contain its requests for relief, to which no response is required. To the extent a response is deemed necessary, Defendants deny that Plaintiff is entitled to the relief requested, or to any relief whatsoever.

ADDITIONAL DEFENSES

Defendants allege the following additional defenses to the Complaint. In asserting these defenses, Defendants do not assume the burden to establish any fact or proposition where that burden is properly imposed upon Plaintiff.

1. Plaintiff is not entitled to compel the production of records protected from disclosure by one or more of the exemptions or exclusions to the FOIA.

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

3. Plaintiff is not entitled to injunctive relief, declaratory relief, mandamus, attorneys' fees, costs of suit, or any damages whatsoever.

4. The Declaratory Judgment Act does not provide the Court with subject matter jurisdiction over any of Plaintiff's claims related to its FOIA requests.

June 27, 2019

Respectfully submitted,

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