

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

CITIZENS FOR RESPONSIBILITY)
AND ETHICS IN WASHINGTON,)
)
Plaintiff,)
)
v.)
)
UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES,)
)
Defendant.)
_____)

Civil Action No. 19- 2254 (RC)

ANSWER

Defendant U.S. Department of Health and Human Services (“HHS”) hereby answers Plaintiff Citizens for Responsibility and Ethics in Washington’s Complaint (the “Complaint”), ECF No. 1, as follows:

1. Paragraph 1 consists of Plaintiff’s characterization of its action, to which no response is required. To the extent a response is deemed required, Defendant denies.
2. Paragraph 2 consists of Plaintiff’s characterization of its action, to which no response is required. To the extent a response is deemed required, Defendant denies.

JURISDICTION AND VENUE

3. Paragraph 3 consists of Plaintiff’s conclusions of law, to which no response is required.

PARTIES

4. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4, and therefore denies them on that basis.

5. Defendant admits the allegations in the first sentence of Paragraph 5. The second sentence of Paragraph 5 consists of conclusions of law, to which no response is required.

STATEMENT OF FACTS

6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6. Defendant admits only that John F. Kelly served as Secretary of Homeland Security from January 2017 to July 2017 and as White House Chief of Staff from July 2017 to January 2019.

7. Defendant denies that the Homestead Facility is a detention center. Defendant further avers that the Homestead Facility is the largest shelter for unaccompanied alien children.

8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8.

9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9.

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

11. Defendant admits that it received a FOIA request from Plaintiff dated May 7, 2019; that FOIA request speaks for itself and is the best evidence of its contents, and defendant respectfully refers the Court to it. The remainder of the allegations in Paragraph 11 consists of Plaintiff's characterization of the request and motivations for submitting the request, to which no response is required.

12. Paragraph 12 consists of Plaintiff's characterization of the May 7 FOIA request, to which no response is required. That FOIA request speaks for itself and is the best evidence of

its contents. Defendant respectfully refers the Court to that request for a complete and accurate statement of its contents.

13. Defendant admits that it sent to Plaintiff an acknowledgement letter dated May 7, 2019. The remainder of the allegations in Paragraph 13 consist of Plaintiff's characterization of the acknowledgement letter, to which no response is required. That acknowledgement letter speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that letter for a complete and accurate statement of its contents.

14. Defendant admits that it sent to Plaintiff a letter dated May 9, 2019. The remainder of the allegations in Paragraph 14 consist of Plaintiff's characterization of the letter, to which no response is required. That letter speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that letter for a complete and accurate statement of its contents.

15. Defendant admits that it received from Plaintiff an email dated May 9, 2019. The remainder of the allegations in Paragraph 15 consist of Plaintiff's characterization of that email, to which no response is required. That email speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that email for a complete and accurate statement of its contents.

16. Defendant admits that it sent to Plaintiff a letter dated May 14, 2019. The remainder of the allegations in Paragraph 16 consist of Plaintiff's characterization of the letter, to which no response is required. That letter speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that letter for a complete and accurate statement of its contents.

17. Defendant admits that it sent to Plaintiff a letter dated June 7, 2019. The remainder of the allegations in Paragraph 17 consist of Plaintiff's characterization of the letter, to which no response is required. That letter speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that letter for a complete and accurate statement of its contents.

18. Defendant admits it received from Plaintiff an email dated June 10, 2019. The remainder of the allegations in Paragraph 18 consist of Plaintiff's characterization of that email, to which no response is required. That email speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that email for a complete and accurate statement of its contents.

19. Admitted.

20. Defendant admits it received from Plaintiff a FOIA request dated May 10, 2019. The remainder of the allegations in Paragraph 20 consist of Plaintiff's characterization of that request, to which no response is required. That FOIA request speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that FOIA request for a complete and accurate statement of its contents.

21. Paragraph 21 consist of Plaintiff's characterization of the May 10 FOIA request, to which no response is required. That FOIA request speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that FOIA request for a complete and accurate statement of its contents.

22. Defendant admits that it sent to Plaintiff an acknowledgement letter dated May 14, 2019. The remainder of the allegations in Paragraph 22 consist of Plaintiff's characterization of that acknowledgement letter, to which no response is required. That letter speaks for itself

and is the best evidence of its contents. Defendant respectfully refers the Court to that letter for a complete and accurate statement of its contents.

23. Defendant admits it sent to Plaintiff a letter dated June 7, 2019. The remainder of the allegations in Paragraph 23 consist of Plaintiff's characterization of that letter, to which no response is required. That letter speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that letter for a complete and accurate statement of its contents.

24. Defendant admits it received from Plaintiff an email dated June 10, 2019. The remainder of the allegations in Paragraph 24 consist of Plaintiff's characterization of that email, to which no response is required. That email speaks for itself and is the best evidence of its contents. Defendant respectfully refers the Court to that email for a complete and accurate statement of its contents.

25. Admitted.

26. Paragraph 26 consists of Plaintiff's legal conclusions, to which no response is required. To the extent a response is deemed required, Defendant denies.

COUNT I

27. Defendant repeats the responses to the foregoing paragraphs and incorporates them as though fully set forth herein.

28. Paragraph 28 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

29. Paragraph 29 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

30. Paragraph 30 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

31. Paragraph 31 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

COUNT II

32. Defendant repeats the responses to the foregoing paragraphs and incorporates them as though fully set forth herein.

33. Paragraph 33 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

34. Paragraph 34 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

35. Paragraph 35 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

36. Paragraph 36 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, Defendant denies.

The unnumbered paragraph following Paragraph 36 consists of Plaintiff's prayer for relief, to which no response is required. Defendant denies that Plaintiff is entitled to the relief requested, or to any relief whatsoever.

Defendant hereby denies each and every allegation in the Complaint not expressly admitted or qualified above.

AFFIRMATIVE DEFENSES

Defendant 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 the Defendant through the course of this litigation.

First Affirmative Defense

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief to the extent that they exceed the relief authorized under FOIA. *See* 5 U.S.C. § 552.

Second Affirmative Defense

The FOIA requests that are the subject of this lawsuit seek the production of certain information that is protected from disclosure by one or more statutory exemptions. Disclosure of such information is not required or permitted. *See* 5 U.S.C. § 552(b).

Third Affirmative Defense

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

Dated: September 18, 2019

Respectfully submitted,

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