

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

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON,)	
)	
Plaintiff,)	Civil Action No. 19-cv-3488 (TFH)
)	
v.)	
)	
OFFICE OF MANAGEMENT AND BUDGET, U.S. DEPARTMENT OF DEFENSE, and U.S. DEPARTMENT OF STATE)	
)	
Defendants.)	
)	

ANSWER TO PLAINTIFF’S FIRST AMENDED COMPLAINT

Defendants Office of Management and Budget (OMB), U.S Department of Defense (DOD), and U.S. Department of State (State), by and through undersigned counsel, hereby answer the numbered paragraphs of Plaintiff’s First Amended Complaint, ECF 6, as follows:

1. This paragraph consists of Plaintiff’s characterization of the First Amended Complaint, to which no response is required.
2. This paragraph consists of Plaintiff’s characterization of the First Amended Complaint, to which no response is required.
3. This paragraph consists of legal conclusions regarding jurisdiction, to which no response is required.
4. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

5. Defendants admit that OMB is a department of the Executive Branch of the U.S. Government headquartered in Washington, D.C. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

6. Defendants admit that DOD is a department of the Executive Branch of the U.S. Government headquartered in Washington, D.C. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

7. Defendants admit that State is a department of the Executive Branch of the U.S. Government headquartered in Washington, D.C. The remaining allegations in this paragraph consist of legal conclusions to which no response is required.

8. This paragraph consists of legal conclusions to which no response is required.

9. This paragraph consists of legal conclusions to which no response is required.

10. This paragraph consists of legal conclusions to which no response is required.

11. This paragraph consists of Plaintiff's characterization of a press release and embedded documents, to which no response is required. The Court is respectfully referred to those documents for a complete and accurate recitation of their contents.

12. This paragraph consists of Plaintiff's characterization of the cited "whistleblower complaint," to which no response is required. The Court is respectfully referred to that document for a complete and accurate recitation of its contents.

13. This paragraph consists of Plaintiff's characterization of the cited "whistleblower complaint," to which no response is required. The Court is respectfully referred to that document for a complete and accurate recitation of its contents.

14. This paragraph consists of Plaintiff's characterization of news stories, to which no response is required. The Court is respectfully referred to those for a complete and accurate recitation of their contents.

15. This paragraph consists of Plaintiff's characterization of news stories, to which no response is required. The Court is respectfully referred to those for a complete and accurate recitation of their contents.

16. This paragraph consists of Plaintiff's characterization of testimony, to which no response is required. The Court is respectfully referred to that testimony for a complete and accurate recitation of its contents.

17. This paragraph consists of Plaintiff's characterization of testimony, to which no response is required. The Court is respectfully referred to that testimony for a complete and accurate recitation of its contents.

18. This paragraph consists of Plaintiff's characterization of testimony, to which no response is required. The Court is respectfully referred to that testimony for a complete and accurate recitation of its contents.

19. This paragraph consists of Plaintiff's characterization of a press conference, to which no response is required. The Court is respectfully referred to the transcript of that press conference for a complete and accurate recitation of its contents.

20. This paragraph consists of Plaintiff's characterization of a news story, to which no response is required. The Court is respectfully referred to the cited news story for a complete and accurate recitation of its contents.

21. This paragraph consists of Plaintiff's characterization of a news story, to which no response is required. The Court is respectfully referred to the cited news story for a complete and accurate recitation of its contents.

22. Admitted that OMB received the referenced FOIA request on October 2, 2019. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

23. Admitted that Plaintiff sought a waiver of fees associated with processing the referenced FOIA request. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

24. Admitted.

25. Admitted that OMB had sent no further communications to Plaintiff regarding the referenced FOIA request as of the date of the First Amended Complaint.

26. Admitted that OMB received the referenced FOIA request on October 22, 2019. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

27. Admitted that Plaintiff sought a waiver of fees associated with processing the referenced FOIA request. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

28. Admitted.

29. Admitted.

30. This paragraph consists of Plaintiff's characterization of the email referenced in paragraph 29, to which no response is required. Defendants respectfully refer the Court to the referenced email for a complete and accurate statement of its contents.

31. Admitted that OMB had sent no further communications to Plaintiff regarding the referenced FOIA request as of the date of the First Amended Complaint.

32. This paragraph consists of legal conclusions regarding administrative exhaustion, to which no response is required.

33. Admitted that DOD received the referenced FOIA request on October 2, 2019. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

34. Admitted that Plaintiff sought a waiver of fees associated with processing the referenced FOIA request. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

35. The first sentence is admitted. Defendants refer the Court to the cited letter for a complete and accurate statement of its contents.

36. Admitted that DOD had not issued a final response to the referenced FOIA request as of the date of the First Amended Complaint. DOD avers, however, that it emailed Plaintiff on October 9, 2019, to clarify a typo in Plaintiff's request.

37. This paragraph consists of legal conclusions regarding administrative exhaustion, to which no response is required.

38. Admitted that State received the referenced FOIA request on October 2, 2019. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

39. Admitted that Plaintiff sought a waiver of fees associated with processing the referenced FOIA request. Defendants respectfully refer the Court to the request for a complete and accurate statement of its contents.

40. The first sentence is admitted. Defendants refer the Court to the cited letter for a complete and accurate statement of its contents.

41. Admitted that the State Department had sent no further communications to Plaintiff regarding the referenced FOIA request as of the date of the First Amended Complaint.

42. This paragraph consists of legal conclusions regarding administrative exhaustion, to which no response is required.

43. Defendants incorporate by reference their response to the foregoing paragraphs as if fully set forth therein.

44. This paragraph consists of legal conclusions, to which no response is required.

45. This paragraph consists of legal conclusions, to which no response is required.

46. This paragraph consists of legal conclusions, to which no response is required.

47. This paragraph consists of legal conclusions, 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.

48. Defendants incorporate by reference their response to the foregoing paragraphs as if fully set forth therein.

49. This paragraph consists of legal conclusions, to which no response is required.

50. This paragraph consists of legal conclusions, to which no response is required.

51. This paragraph consists of legal conclusions, to which no response is required.

52. This paragraph consists of legal conclusions, 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.

53. Defendants incorporate by reference their response to the foregoing paragraphs as if fully set forth therein.

54. This paragraph consists of legal conclusions, to which no response is required.

55. This paragraph consists of legal conclusions, to which no response is required.

56. This paragraph consists of legal conclusions, to which no response is required.

57. This paragraph consists of legal conclusions, 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.

The remaining subparagraphs, numbered 1–6, constitute a prayer 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.

Defendants hereby deny all allegations in Plaintiff’s First Amended Complaint not expressly admitted or denied.

DEFENSES

1. Plaintiff is not entitled to compel production of records exempt from disclosure by one or more exemptions to the Freedom of Information Act, 5 U.S.C. § 552.
2. Some or all of Plaintiff’s First Amended Complaint fails to state a claim upon which relief may be granted.

Dated: December 31, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

ELIZABETH J. SHAPIRO
Deputy Director, Federal Programs Branch

/s/ Grace X. Zhou
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