

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

CITIZENS FOR RESPONSIBILITY AND)
ETHICS IN WASHINGTON,)
Plaintiff,)
v.)
UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY,)
Defendant.)

Case No. 1:19-cv-3544 (APM)

ANSWER

Defendant, the United States Department of Homeland Security (“Defendant” or “DHS”), by and through undersigned counsel, hereby answers the Complaint of Plaintiff Citizens for Responsibility and Ethics in Washington (“Plaintiff” or “CREW”) as follows.

DEFENSES

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

FIRST DEFENSE

Plaintiff has failed to state a claim upon which relief may be granted under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

SECOND DEFENSE

Withholding of the information that Defendant does not disclose in response to Plaintiff’s FOIA request is permitted under the exemptions to FOIA, 5 U.S.C. § 552(b), or the Privacy Act (“PA”), 5 U.S.C. § 552a.

THIRD DEFENSE

The Court lacks subject matter jurisdiction over Plaintiff’s request to the extent that the request exceeds relief authorized by FOIA.

FOURTH DEFENSE

Plaintiff is not entitled to attorneys' fees or costs.

Defendant responds as follows to the Complaint's specifically enumerated paragraphs.

1. The allegations in paragraph 1 consist of Plaintiff's characterization of this action and legal conclusions, to which no response is required. To the extent a response is required, DHS admits that this action purports to be brought under the FOIA, 5 U.S.C. 552, as amended, and that Plaintiff submitted a FOIA request for information and records relating, *inter alia*, to a former DHS Advisor for Policy, Katharine Gorka. Defendant denies that paragraph 1 fully and accurately characterizes the FOIA request, and Defendant respectfully refers the Court to the cited document for a full, fair, and accurate statement of its contents. DHS admits that CREW's FOIA appeal was submitted on or about September 20, 2019. The remaining allegations in this paragraph are denied.

2. The allegations in paragraph 2 consist of Plaintiff's characterization of this action, to which no response is required. To the extent a response is required, DHS admits that this action purports to be brought under the FOIA, 5 U.S.C. 552, as amended

JURISDICTION AND VENUE

3. The allegations in paragraph 3 contain conclusions of law concerning jurisdiction and venue, to which no response is required. To the extent a response is required, Defendant DHS admits only that this Court has jurisdiction and venue pursuant to 5 U.S.C. § 552(a)(4)(B).

PARTIES

4. The allegations contained in paragraph 4 consist of Plaintiff's characterization of itself, to which no response is required. To the extent that a response is required, Defendant

lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies the allegations.

5. Defendant DHS admits only that it is a Federal agency, within the meaning of 5 U.S.C. 552(f), with its headquarters in Washington, D.C. The remaining allegations in this paragraph consist of conclusions of law, to which no response is required. To the extent that a response is required, deny.

FACTS

6. Admit.

7. The allegations in paragraph 7 are immaterial to this FOIA litigation and Defendant DHS is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the allegations.

8. The allegations in paragraph 8 are immaterial to this FOIA litigation. By way of further answer, admit.

9. The allegations in paragraph 9 are immaterial to this FOIA litigation and Defendant DHS is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the allegations.

10. The allegations in paragraph 10 consist of Plaintiff's characterization of various third parties' projects, to which no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore denies the allegations, except to admit that no grant funds were disbursed by the DHS Countering Violent Extremism Task Force (CVE) in or around January 2017 to a group called Life After Hate or to the University of North Carolina at Chapel Hill.

11. The allegations in paragraph 11 are immaterial to this FOIA litigation and Defendant DHS is without knowledge or information sufficient to form a belief as to the truth of the allegations and on that basis denies the allegations.

12. The allegations in the first sentence of paragraph 12 are denied. As for the allegations in the second sentence of paragraph 12, Defendant denies that the CVE Task Force was renamed, and Defendant lacks knowledge sufficient to form a belief as to the truth of the allegations in this sentence concerning whether any person employed by DHS ever considered renaming the Task Force.

13. Admit.

14. The allegations in paragraph 14 consist of Plaintiff's characterization of the intent and nature of various third parties' projects, to which no response is required.

15. Defendant DHS admits only that by email dated August 18, 2017, DHS acknowledged receipt of Plaintiff's FOIA request dated August 18, 2017, and assigned Plaintiff's FOIA request tracking number 2017-HQFO-01253. Plaintiff's FOIA request speaks for itself and is the best evidence of its contents, and Defendant DHS denies the allegations in paragraph 15 to the extent they do not fully and accurately state the contents of the FOIA request.

16. Admit.

17. DHS admits only that it sent Plaintiff an email response dated June 23, 2019, and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph, and DHS specifically denies that it withheld in their entirety 685 pages of records. By way of further answer, DHS admits that it invoked FOIA exemptions 5, 6, 7(C), and 7(E) to withhold portions of those 685 pages of records.

18. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

19. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

20. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

21. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

22. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

23. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

24. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

25. DHS admits that it received Plaintiff's appeal of DHS' response dated September 20, 2019 and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

26. DHS admits that by email dated September 20, 2019, DHS confirmed receipt of Plaintiff's appeal of DHS' response dated September 20, 2019, and respectfully refers the Court to that letter for an accurate and complete statement of its contents. DHS denies any remaining allegations in this paragraph.

27. The allegations in paragraph 27 consist of plaintiff's characterization of 6 C.F.R. § 5.8, to which no response is required. DHS respectfully refers the court to that regulation for an accurate and complete statement of its contents.

28. DHS admits that, as of today, it has not rendered a decision on Plaintiff's administrative appeal and that its most recent communication to Plaintiff concerning that appeal was its acknowledgment of receipt of the appeal.

CLAIM I

29. DHS repeats, realleges, and reincorporates by reference its responses to paragraphs 1 to 28 as if fully set forth herein.

30. The allegations contained in paragraph 30 consist of conclusions of law, to which no response is required. To the extent that a response is required, deny.

31. The allegations contained in paragraph 31 consist of conclusions of law, to which no response is required. To the extent that a response is required, deny.

32. The allegations contained in paragraph 32 consist of conclusions of law, to which no response is required. To the extent that a response is required, deny.

CLAIM II

33. DHS repeats, realleges, and reincorporates by reference its responses to paragraphs 1 to 28 as if fully set forth herein.

34. The allegations contained in paragraph 34 consist of conclusions of law, to which no response is required. To the extent that a response is required, deny.

35. The allegations contained in paragraph 35 consist of conclusions of law, to which no response is required. To the extent that a response is required, deny.

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

Defendant denies each and every allegation contained in the Complaint except as expressly admitted herein.

Respectfully submitted,

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