



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for Public Affairs
Washington, D.C. 20201

FOIA Case No.: 2020-00754-FOIA-OS
American Oversight vs HHS, FDA, NIAID,
& CMS, 1:20-cv-01063-APM

November 22, 2021

Sent via email

Mr. Austin R. Evers
Executive Director
American Oversight
1030 15th Street, NW, Suite B255
Washington, DC 20005
foia@americanoversight.org

Dear Mr. Evers:

This letter is the Department's second response to your March 2, 2020, Freedom of Information Act (FOIA) request. Specifically, you requested:

All final directives, orders, decision memoranda, or guidance from President Trump, Vice President Pence, or any staff of the Executive Office of the President (including anyone on White House Staff, in the Office of the Vice President, or on the staff of the National Security Council) regarding public statements, public appearances, website updates or changes, or communications or press strategy on the coronavirus, COVID-19.

In order to search for records responsive to your request, our office sent your request to several offices, including the Office of the Secretary and the Office of the Assistant Secretary for Public Affairs.

For this release, we reviewed 528 pages of records potentially responsive to your request and determined 525 were not relevant to your request and contained comments on draft press releases and similar content. Three pages were referred to another agency for disclosure review and returned to this office for release, with portions redacted pursuant to Exemptions (b)(5) and (b)(6) of the FOIA 5 U.S.C. § 552.

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, amongst others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress

intended the term "similar files" to be interpreted broadly, rather than narrowly. In this case, the information withheld consists of personal or undisclosed email addresses and cell phone numbers. I have analyzed these records and find they meet the threshold requirement of this exemption.

We will continue to review the remaining records as efficiently and expeditiously as possible, consistent with our available resources and the Order of the Court. Should you have questions or concerns regarding the Department's response and/or the processing of your request, any such issues should be communicated to your legal counsel and the Department of Justice Attorney representing the Department in this matter.

Sincerely,

Alesia Y. Williams
Alesia Y. Williams

Director, FOIA Appeals and Litigations
FOI/Privacy Act Division

Enclosure: 3 pages

From:	Fetalvo, Ninio J. EOP/OVP <(b)(6)>
To:	Fetalvo, Ninio J. EOP/OVP <(b)(6)>
CC:	Miller, Katie R. EOP/OVP <(b)(6)>; Devin. O'Malley <Devin.O'Malley@treasury.gov>; Frattaroli, Caroline E. EOP/OVP <(b)(6)>
Subject:	3/5/20 AM Notes from Daily Coronavirus Comms Sync
Date:	2020/03/05 10:29:11
Priority:	Normal
Type:	Note

Hi all—

As mentioned on the call, OVP will now be linking to the CDC COVID-19 website on all readouts, press releases, and other external communications on Coronavirus going forward. Below is the language we are using. Please start doing the same and let us know if you have any questions.

For more information about the Coronavirus, please visit: <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

Thanks,
Ninio

(b)(5)

(b)(5)

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Ninio J.H. Fetalvo

Office of the Vice President

(b)(6) (no text)

Sender:	Fetalvo, Ninio J. EOP/OVP <(b)(6)>
Recipient:	Fetalvo, Ninio J. EOP/OVP <(b)(6)>; Miller, Katie R. EOP/OVP <(b)(6)>; Devin. O'Malley <Devin.O'Malley@treasury.gov>; Frattaroli, Caroline E. EOP/OVP <(b)(6)>
Sent Date:	2020/03/05 10:27:51
Delivered Date:	2020/03/05 10:29:11