



FEMA

December 11, 2023

SENT VIA E-MAIL TO: FOIA@AMERICANOVERSIGHT.ORG

Dan McGrath
American Oversight
1030 15th Street NW, Suite B255
Washington, D.C. 20005

**Re: FEMA 2021-FEFO-00755 Final Response
Referral from HQ/PRIV 2020-HQLI-00029 (20-cv-01596)**

Dear Mr. McGrath:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Federal Emergency Management Agency (FEMA) and The Privacy Office dated April 23, 2020. On July 2, 2021, The Privacy Office referred a total of 31 pages to FEMA for action and direct response to you. You requested records regarding the agencies' response to the coronavirus pandemic related to the procurement and distribution of needed equipment and supplies.

After careful review to the 31 pages, I have determined that two (2) pages of the records are releasable in their entirety, two (2) pages are withheld in their entirety, and portions of the remaining 27 pages are partially withheld, pursuant to Title 5 U.S.C. §552(b)(5) and (b)(6), FOIA Exemptions 5 and 6.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, we determined that portions of the responsive documents qualify for protection under the following privilege(s):

Deliberative Process Privilege

The deliberative process privilege protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal

information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure of personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

You have the right to appeal if you disagree with FEMA's response. The procedure for administrative appeals is outlined in the DHS regulations at 6 C.F.R. § 5.8. In the event you wish to submit an appeal, we encourage you to both state the reason(s) you believe FEMA's initial determination on your FOIA request was erroneous in your correspondence and include a copy of this letter with your appeal. Should you wish to do so, you must send your appeal within 90 days from the date of this letter to fema-foia@fema.dhs.gov, or alternatively, via mail at the following address:

FEMA
Office of the Chief Administrative Officer
Information Management Division (FOIA Appeals)
500 C Street, SW, Seventh Floor, Mail Stop 3172
Washington, D.C. 20472-3172

As part of the 2007 amendments, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road- OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770/Toll-free: 1-877-684-6448
Facsimile: 202-741-5769

If you wish to appeal any withholdings from either the White House or DHS Headquarters, please send your appeal request to the following address:

You have a right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr Avenue, SE, Mail Stop 0525, Washington, D.C. 20528-0525, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.8. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$25 minimum, there is no charge.

If you need any further assistance or would like to discuss any aspect of your request, please contact us and refer to FOIA case number **FEMA 2021-FEFO--00755**. You may send an e-mail to fema-foia@fema.dhs.gov, call (202) 646-3323, or you may contact our FOIA Public Liaison in the same manner.

Sincerely,

Pearline Robinson
Senior FOIA Team Lead
Disclosure Branch
Information Management Division
Mission Support

Enclosure(s): Responsive documents (31 pages)