



Homeland
Security

Privacy Office, Mail Stop 0655

January 29, 2021

SENT VIA E-MAIL TO: foia@americanoversight.org

Austin Evers
American Oversight
1030 15th Street, NW, Suite B255
Washington, DC 20005

Re: **2020-HQFO-01031**

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Privacy Office, dated April 29, 2020, and received by this office on April 29, 2020. You are seeking:

1. All decision memoranda or orders, including but not limited to orders (incl. formal orders or informal instructions provided via email or memoranda) under the Defense Production Act or any other legal authorities, about the rerouting, inspecting, taking priority over, commandeering, seizing, intercepting, diverting, cancelling, or in any other way taking control or possession of equipment, whether temporarily or permanently, (including but not limited to memos justifying or summarizing these actions), that was in or on the way to the following locations:
 - i. Somerset County, New Jersey (on or around Apr. 3, 2020): order of N-95 masks, KN-95 masks, surgical masks.
 - ii. In route to Kentucky from Texas (between March 15 and April 11, 2020): four shipments of protective gear headed to Kentucky hospitals.
 - iii. Baystate Health, Springfield, Massachusetts (on or around April 17, 2020): order of three-ply face masks and N-95 respirators.
 - iv. Bellingham's St. Joseph hospital and other Peace Health medical facilities in Washington State, Oregon, and Alaska (on or before Apr. 7, 2020): order of test kit materials.
 - v. Texas Assn. of Community Health Centers (on or before Apr. 7, 2020): order of masks.
 - vi. Colorado (ordered by the state of Colorado, under the authority of Governor Polis) (on or around Apr. 4, 2020): order of 500 ventilators.
 - vii. Kentucky Hospital Association (between March 15 and April 11, 2020): unspecified supplies.
 - viii. In route to Delaware from New York's John F. Kennedy (JFK) Airport (between April 1, and Apr. 21, 2020): order of N95 respirators and masks by Indutex USA; at least one order, shipment number 8994645378, arrived at JFK on April 6, 2020, and a second order arrived on April 19, 2020.
2. All email communications (emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) of specified agency officials regarding any of the following instances in which federal officials reportedly redirected supplies intended for coronavirus response:

- i. Somerset County, New Jersey (on or around Apr. 3, 2020): order of N-95 masks, KN-95 masks, surgical masks.
- ii. In route to Kentucky from Texas (between March 15 and April 11, 2020): four shipments of protective gear headed to Kentucky hospitals.
- iii. Baystate Health, Springfield, Massachusetts (on or around April 17, 2020): order of three-ply face masks and N-95 respirators.
- iv. Bellingham's St. Joseph hospital and other PeaceHealth medical facilities in Washington State, Oregon, and Alaska (on or before Apr. 7, 2020): order of test kit materials.
- v. Texas Assn. of Community Health Centers (on or before Apr. 7, 2020): order of masks.
- vi. Colorado (ordered by the state of Colorado, under the authority of Governor Polis) (on or around Apr. 4, 2020): order of 500 ventilators.
- vii. Kentucky Hospital Association (between March 15 and April 11, 2020): unspecified supplies.
- viii. In route to Delaware from New York's John F. Kennedy (JFK) Airport between April 1, and Apr. 21, 2020): order of N95 respirators and masks by Indutex USA; at least one order, shipment number 8994645378, arrived at JFK on April 6, 2020, and a second order arrived on April 19, 2020.

We conducted a comprehensive search of files within the Department of Homeland Security (DHS) Office of the Executive Secretary (ESEC) and Office of the General Counsel (OGC for records that would be responsive to your request. Unfortunately, we were unable to locate or identify any responsive records.

While an adequate search was conducted, you have the right to appeal this determination that no records exist within Office of the Executive Secretary (ESEC) and Office of the General Counsel (OGC) that would be responsive to your request. 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 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Upon further review, we have determined that most COVID-19 related requests, including yours, should be handled at the Component-level rather than processed at Headquarters. Accordingly, you should expect to receive a final response directly from the Components as well. Please note that the Components are already in the process of searching for potentially responsive records to your request. We do not expect this administrative change to delay your response.

Due to the subject matter of your request, I am transferring this request to the FOIA Officers for **Federal Emergency Management Agency (FEMA)**, and **U. S. Customs & Border Protection (CBP)**, for processing under the FOIA and direct response to you. Please find their contact information below:

Federal Emergency Management Agency (FEMA)
FOIA Officer
500 C Street, S.W., Room 840

Washington, D.C. 20472
Phone: 202-646-3323
Fax: 202-646-3347
E-mail: fema-foia@fema.dhs.gov
[FEMA Website](#)

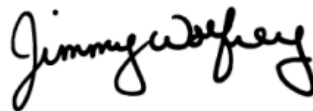
U. S. Customs & Border Protection (CBP)

FOIA Officer
U.S. Customs and Border Protection
90 K Street, NE
FOIA Division
Washington, DC 20229
Phone: 202-325-0150
[CBP Website](#)

If you need any further assistance or would like to discuss any aspect of your request, please contact the analyst below who processed your request and refer to **2020-HQFO-01031**. You may send an e-mail to foia@hq.dhs.gov, call 202-343-1743 or toll free 1-866-431-0486, or you may contact our FOIA Public Liaison in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

Sincerely,



Jimmy Wolfrey
Senior Director, FOIA Operations and Management
(Acting)