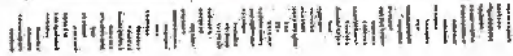


Gary Lawkow
Dhillon Law C
2121 Eisenhower Avenue, Suite 600
Alexandria, VA 22314



PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL



7020 1810 0002 3169 4602



DEC 28 2023

U.S. Department Health and Human Services
c/o Samuel R. Bagenstos, General Counsel
200 Independence Avenue, S.W.
Washington, D.C. 20201

Delivered as Received

DEC 27 2023

PSC Cohen Mailroom

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DEC 27 2023

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LEARN FOR

Deborah Lerman

Plaintiff

v.

Federal Emergency Management Agency, et al.

Defendant

Civil Action No. 1:23-cv-03784

SUMMONS IN A CIVIL ACTION

DEC 28 2023

To: *(Defendant's name and address)*

U.S. Department of Health and Human Services
c/o Samuel R. Bagenstos, General Counsel
200 Independence Avenue, S.W.
Washington, D.C. 20201

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Mr. Gary Lawkowski
Dhillon Law Group
2121 Eisenhower Avenue
Suite 608
Alexandria, VA 22314

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: 12/21/2023



/s/ Ro'Shaila Williams

Signature of Clerk or Deputy Clerk

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

DEC 28 2023

DEBORAH LERMAN
103 East Clivenden Street
Philadelphia, PA 19119,

Plaintiff,

v.

Civil Case No. 1:23-cv-03784

FEDERAL EMERGENCY MANAGEMENT
AGENCY
500 C Street, SW
Washington, DC 20472,

CENTERS FOR DISEASE CONTROL
1600 Clifton Road
Atlanta, GA 30329,

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES
200 Independence Avenue, S.W.
Washington, D.C. 20201,

Defendants.

COMPLAINT

1. The Freedom of Information Act does not allow federal agencies to take over 200 days and counting to process forty-one pages of responsive records that were identified months ago. Therefore, Plaintiff Deborah Lerman brings this action against the Federal Emergency Management Agency, the Centers for Disease Control, and the U.S. Department of Health and Human Services under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA") seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
3. Venue is proper in this Court pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

4. Plaintiff Deborah Lerman is a natural person and member of the general public.
5. Defendant Federal Emergency Management Agency (“FEMA”) is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). FEMA has possession, custody, and control of records responsive to Plaintiff’s FOIA request.
6. Defendant Center for Disease Control (“CDC”) is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). CDC has possession, custody, and control of records responsive to Plaintiff’s FOIA request.
7. Defendant Health and Human Services (“HHS”) is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). HHS has possession, custody, and control of records responsive to Plaintiff’s FOIA request.

STATEMENT OF FACTS

8. On May 8, 2023, Plaintiff submitted the following request to FEMA:

Under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, I, Debbie Lerman, a member of the general public, request that you provide me with copies of the following records: Any written plans created by the U.S. government after July 1, 2019 setting forth, directing, discussing or describing the U.S. government’s response to the SARS-CoV-2 pandemic including, but not limited to, the following: (1) A document entitled “Phases of U.S. Government Response to the 2019 Novel Coronavirus (2019-nCoV),” dated February 11, 2020, and which is referred to at page 10 of the “PanCAP Adapted U.S. Government COVID-19 Response Plan,” (March 13, 2020); (2) The NSC Resilience DRG PCC issued on February 24, 2020, and referred to at page 7 of the “PanCAP Adapted U.S. Government COVID-19 Response Plan,” (March 13, 2020); (3) The COVID-19 Containment and Mitigation Strategy developed

by the NSC and referred to on page 8 of the “PanCAP Adapted U.S. Government COVID-19 Response Plan,” (March 13, 2020). Please provide electronic copies of any responsive records by sending them as attachments to emails to my address listed below. Thank you in advance for your prompt attention to this request.

9. These records are in the public interest because they will provide the public with a greater understanding of how the U.S. government responded to the COVID-19 pandemic. While Plaintiff filed her request in her capacity as a citizen, she is also a journalist who regularly writes articles on issues of public policy, including issues relating to COVID-19. *See generally Debbie Lerman*, Brownstone Institute (accessed Dec. 20, 2023), <https://brownstone.org/author/debbie-lerman/>; *Debbie Lerman, Covid mRNA Vaccines Required No Safety Oversight*, Brownstone Institute (Dec. 6, 2023), <https://brownstone.org/articles/covid-mrna-vaccines-required-no-safety-oversight/>. She has the intention and capability to write on information obtained through her FOIA request.
10. On May 30, 2023, FEMA provided Plaintiff with a fee estimate for processing her FOIA request.
11. That same day, Plaintiff replied, agreeing to pay estimated fees of \$32.25.
12. On June 1, 2023, Plaintiff followed up to ensure her prior email was received.
13. That same day, FEMA responded in part “[y]es, we received your email agreeing to pay the fees. Your request has been sent to the appropriate program office and is currently being processed. I’ll make sure to keep you informed if anything else is required.”
14. On June 13, 2023, Plaintiff followed up, asking in part “It’s been almost two weeks – just wondering where we are in the process?”

15. On June 15, 2023, FEMA responded in pertinent part “[w]e estimate that you will receive a response to this request on or near June 22, 2023. We will notify you if this date should change.”
16. On June 23, 2023, Plaintiff followed up, stating in part “sorry to be a pest! Just hoping to get an update on my request.”
17. That same day, FEMA responded in pertinent part “We apologize for the delay; unfortunately, the projected date has been changed to or near July 7, 2023.”
18. Later that day, Plaintiff responded in part, asking “1) Do you know the reason for the delay?
2) Can I get just the three documents specifically named in the request before all the rest, since they are supposed to be provided on a rolling basis?”
19. Approximately thirty minutes later, FEMA responded in part “I just received an update, please expect to receive our final response by COB today.”
20. Later that day, FEMA sent a purported “final response” that concluded “we do not have reason to believe FEMA would have records responsive to this request.”
21. Within an hour, Plaintiff responded, challenging this assertion and noting in part “on March 18, 2020, FEMA replaced HHS as the Lead Federal Agency for Covid response.”
22. FEMA responded in pertinent part “I have received your email and will bring up your concern and forward this email to the program office and personnel involved in this request. I’ll be providing you an update as soon as I hear from them.”
23. After additional back and forth between Plaintiff and FEMA regarding the status of the request, on July 12, 2023, FEMA responded in pertinent part:

Jennifer brought your reply to my attention, and I asked to reopen the request and search again for any of the documents you identified in our possession. I’m sure you are aware that our agency, the Department of Health and Human Services (HHS), and the Executive Office of the President (WH) collaborated

on a task force to respond to the pandemic. The result was many COVID-19 documents that contain equity from all three groups. I mention this because if we do locate the responsive records, we will not provide a final determination on them if they contain equities from either HHS or the WH. Instead, we will forward the records to either group and they will in turn provide you with the final response. If we do have to take this approach, we will send you a formal letter letting and include a POC for each office that would be receiving your request.

I also ask Jennifer to provide you with a status update no later than July 17, 2023.

24. On July 17, 2023, FEMA replied, indicating that it had referred Plaintiff's request to the Department of Homeland Security and HHS. *See* July 17 Referral Letter (attached as Exhibit A).
25. That same day, the CDC—a subagency of HHS—acknowledged receipt of Plaintiff's FOIA on referral from FEMA. *See* July 17, 2023, Acknowledgement Letter (attached as Exhibit B). This letter stated in part “[w]e reasonably anticipate that you should receive your documents by August 14, 2023.”
26. On August 14, 2023, CDC followed up, stating in pertinent part “[y]our FOIA request is still in my processing queue. We process FOIAs on a first in/first out basis. Estimated dates of completion are approximate according to our workload and the request volume. I hope to complete your request in the coming weeks.”
27. Later that same day, CDC provided an additional update, stating “I anticipate having CDC's portion of the request complete by August 29.”
28. On August 18, 2023, CDC informed Plaintiff that it was withholding nine pages pursuant to Exemption 5. The CDC further stated “[t]he remaining 32 pages have been referred to the Department of Health and Human Services.” *See* August 18 Response Letter (attached as Exhibit C).

29. Also on August 18, 2023, the CDC sent a second letter stating in part “32 pages of your request have been referred to the Division of Freedom of Information for the Food and Drug Administration” and directing to contact the HHS Office of the Secretary Freedom of Information Office with any questions about Plaintiff’s request. *See* August 18 Referral Letter (attached as Exhibit D).
30. On August 27, 2023, August 30, 2023, and September 12, 2023, Plaintiff reached out to HHS to confirm that it was reviewing the records.
31. On September 12, 2023, HHS responded, stating “[a]n estimated date of completion is 3 months from now.”
32. HHS has yet to release the 32 pages that were referred.
33. At this time, Plaintiff’s request has been pending for more than 220 days—well beyond the statutory period to respond to a FOIA request.” 5 U.S.C. § 552(a)(6)(B). During this time, it has been shunted along between at least three agencies, all to review a mere forty-one pages. Yet neither FEMA, the CDC, nor HHS have made *any* determination of whether it will comply with Plaintiff’s request regarding thirty-two pages for which no claim of exemption has been made. *See Citizens for Responsibility and Ethics in Washington v. FEC*, 711 F.3d 180 (D.C. Cir. 2013) (“*CREW*”). To wit, no agency has produced the requested thirty-two pages, communicated to Plaintiff the scope of these documents that it intends to produce and withhold, along with the reasons for such withholding, nor informed Plaintiff of its ability to appeal any adverse portion of its determination on these documents.
34. The CDC’s determination with respect to the nine pages that were withheld pursuant to Exemption 5 is not a determination with respect to the other thirty-two pages. First, no agency has stated which portion of the remaining thirty-two pages it intends to withhold,

nor the basis for any withholding. Second, while the CDC did appraise Plaintiff of her right to appeal the determination that Exemption 5 applied to the nine withheld pages, no agency has appraised Plaintiff of her right to appeal a determination with respect to the thirty-two pages of outstanding pages, nor could they, since no agency has stated a final basis for withholding. *See CREW*, 711 F.3d at 188-87 (“Therein lies the Catch-22 that the agency seeks to jam into FOIA: A requester cannot appeal within the agency because the agency has not provided the necessary information. Yet the requester cannot go to court because the requester has not appealed within the agency. Although the agency may desire to keep FOIA requests bottled up in limbo for months or years on end, the statute simply does not countenance such a system, as we read the statutory text.”).

35. Moreover, even if the August 18 letter (or any earlier letter) were a determination (it is not), the agencies’ continued withholding of the thirty-two pages still outstanding would still be impermissible. In *CREW*, then-circuit judge Kavanaugh wrote “[a]s to actual production, FOIA requires that the agency make the records ‘promptly available,’ which depending on the circumstances typically would mean within days or a few weeks of a ‘determination,’ not months or years.” *Id.* at 188 (citation omitted). Plaintiff’s request has been pending nearly four months since the CDC referred the matter to HHS. This is more than a few days or weeks and is plainly inappropriate under the *CREW* standard. Thus, even if the August 18 letter is a “determination” with respect to the remaining thirty-two pages, the agencies’ continued withholding of responsive records is unlawful.
36. In addition, on October 12, 2023, Plaintiff appealed to the CDC the withholding of nine pages pursuant to a claim of Exemption 5.
37. The CDC has yet to respond to Plaintiff’s appeal.

38. Thus, CDC has failed to make a determination with respect to Plaintiff's appeal within the requisite statutory time period. *See* 5 U.S.C. § 552(a)(6)(a)(ii). Plaintiff has constructively exhausted her administrative remedies and seeks judicial relief to rectify the wrongful withholding of the nine pages for which CDC claimed an exemption.
39. Plaintiff's FOIA request was initially directed to FEMA. Thus, FEMA has an obligation to ensure that a proper response is made within the requisite timeframe. *See, e.g., Hall v. C.I.A.*, 668 F.Supp.2d 172, 182 (D.D.C. 2009) ("[T]he Court holds that the [referring agency] is responsible for responding to this request and that it must take affirmative steps to ensure that its referrals are being processed."). Given that FEMA has referred Plaintiff's request to the CDC, who in turn referred it to HHS, the CDC and HHS as included in this Complaint as necessary parties. *See* Fed. R. Civ. P. 19(a).
40. In the alternative, Plaintiff brings a claim against CDC and HHS, which are each also wrongfully withholding the outstanding records.

COUNT I

Violation of FOIA, 5 U.S.C. § 552

Wrongful Withholding of Non-Exempt Responsive Records by FEMA

41. Plaintiff repeats and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
42. Plaintiff properly submitted a request for records within the possession, custody, and control of FEMA.
43. FEMA is an agency subject to FOIA, and therefore has an obligation to release any non-exempt records and provide a lawful reason for withholding any materials in response to a proper FOIA request.

44. FEMA is wrongfully withholding non-exempt agency records requested by Plaintiff by failing to produce non-exempt records responsive to its request.
45. FEMA's failure to provide all non-exempt responsive records violates FOIA.
46. Plaintiff is therefore entitled to declaratory and injunctive relief requiring FEMA and any other necessary party joined to this lawsuit to promptly produce all non-exempt records responsive to its FOIA request and provide an index justifying the withholding of any responsive records withheld under claim of exemption.

COUNT II (IN THE ALTERNATIVE)

Violation of FOIA, 5 U.S.C. § 552

Wrongful Withholding of Non-Exempt Responsive Records by the CDC

47. Plaintiff repeats and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
48. Plaintiff properly submitted a request for records to FEMA, which was referred to the CDC to process with respect to records within the possession, custody, and control of the CDC.
49. The CDC is an agency subject to FOIA, and therefore has an obligation to release any non-exempt records and provide a lawful reason for withholding any materials in response to a proper FOIA request.
50. The CDC is wrongfully withholding non-exempt agency records requested by Plaintiff by failing to produce non-exempt records responsive to its request.
51. The CDC's failure to provide all non-exempt responsive records violates FOIA.
52. Plaintiff is therefore entitled to declaratory and injunctive relief requiring the CDC to promptly produce all non-exempt records responsive to its FOIA request and provide an index justifying the withholding of any responsive records withheld under claim of exemption.

COUNT III (IN THE ALTERNATIVE)

Violation of FOIA, 5 U.S.C. § 552

Wrongful Withholding of Non-Exempt Responsive Records by HHS

53. Plaintiff repeats and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
54. Plaintiff properly submitted a request for records to FEMA, who in turn referred it to the CDC, who in turn referred it to HHS with respect to thirty-two pages of records within the possession, custody, and control of HHS.
55. HHS is an agency subject to FOIA, and therefore has an obligation to release any non-exempt records and provide a lawful reason for withholding any materials in response to a proper FOIA request.
56. HHS is wrongfully withholding non-exempt agency records requested by Plaintiff by failing to produce non-exempt records responsive to its request.
57. HHS's failure to provide all non-exempt responsive records violates FOIA.
58. Plaintiff is therefore entitled to declaratory and injunctive relief requiring HHS to promptly produce all non-exempt records responsive to its FOIA request and provide an index justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

Plaintiff respectfully requests this Court:

- (1) Assume jurisdiction in this matter and maintain jurisdiction until FEMA, the CDC, and HHS comply with the requirements of FOIA and any and all orders of this Court.
- (2) Order FEMA, or in the alternative, the CDC, or, in the alternative, HHS, to produce, within ten days of the Court's order, or by other such date as the Court deems appropriate, the forty-one pages of responsive records previously identified.

- (3) Enjoin FEMA, the CDC, and HHS from continuing to withhold any and all non-exempt responsive records.
- (4) Award the costs of this proceeding, including reasonable attorney's fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E) and/or other applicable statute.
- (5) Grant Plaintiff other such relief as the Court deems just and proper.

Dated: December 20, 2023

Respectfully submitted,

DEBORAH LERMAN

By Counsel:

/s/Gary M. Lawkowski

Gary M. Lawkowski

D.D.C. Bar ID: VA125

DHILLON LAW GROUP, INC.

2121 Eisenhower Avenue, Suite 608

Alexandria, Virginia 22314

Telephone: 703-574-1654

GLawkowski@Dhillonlaw.com

Counsel for the Plaintiff

Debbie Lerman
2023-FEFO-00625

2

FOIARequest@hhs.gov

You may contact DHS with questions about your FOIA request using the following contact information:

Privacy Office, Mail Stop 0655
Department of Homeland Security
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065
FOIA@hq.dhs.gov

Please note this is not a denial of your FOIA request for FEMA's records. HHS and DHS will process your FOIA request and contact you regarding their release determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Bridges".

Greg Bridges
Disclosure Branch Chief
Information Management Division
Office of the Chief Administrative Officer
Federal Emergency Management Agency
U.S. Department of Homeland Security



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

July 17, 2023

Debbie Lerman
103 E. Cliveden St.
Philadelphia, Pennsylvania 19119
Via email: debbielerman@yahoo.com

Dear Ms. Lerman:

The Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) received the referral of your Freedom of Information Act (FOIA) request from the Federal Emergency Management Agency (FEMA) dated July 17, 2023 on July 17, 2023. Your request assigned number is HQ-REF-23-00050, and it has been placed in our simple processing queue.

Fee Category

Because you are considered an "Other requester" you are entitled to two hours of free search time, and up to 100 pages of duplication (or the cost equivalent of other media) without charge, and you will not be charged for review time. We may charge for search time beyond the first two hours and for duplication beyond the first 100 pages. (10 cents/page).

You may check on the status of your case on our FOIA webpage <https://foia.cdc.gov/app/Home.aspx> by entering your assigned request number. If you have any questions regarding your request, please contact Rachel Friend at ult5@cdc.gov or (404) 639-4958.

We reasonably anticipate that you should receive documents by August 14, 2023. Please know that this date roughly estimates how long it will take the agency to close requests ahead of your request in the queue and complete work on your request. The actual date of completion might be before or after this estimated date.

Sincerely,

Roger Andoh
CDC/ATSDR FOIA Officer
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

HQ-REF-23-00050



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

August 18, 2023

Debbie Lerman
103 E. Cliveden St.
Philadelphia, Pennsylvania 19119
Via email: debbielerman@yahoo.com

Dear Ms. Lerman:

This letter is regarding your Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Freedom of Information Act (FOIA) request of July 17, 2023, assigned #HQ-REF-23-00050, for

1. A document entitled "Phases of U.S. Government Response to the 2019 Novel Coronavirus (2019-nCoV)," dated February 11, 2020, and which is referred to at page 10 of the "PanCAP Adapted U.S. Government COVID-19 Response Plan," (March 13, 2020);
2. The NSC Resilience DRG PCC issued on February 24, 2020, and referred to at page 7 of the "PanCAP Adapted U.S. Government COVID-19 Response Plan," (March 13, 2020);
3. The COVID-19 Containment and Mitigation Strategy developed by the NSC and referred to on page 8 of the "PanCAP Adapted U.S. Government COVID-19 Response Plan," (March 13, 2020).

The Federal Emergency Management Agency (FEMA) forwarded CDC 41 pages for our review in response to your request. After a careful review of these pages, 9 pages were determined to have CDC equities and have been withheld in full pursuant to 5 U.S.C. §552 Exemption(s) 5. The foreseeable harm standard was considered when applying these redactions.

The remaining 32 pages have been referred to the Department of Health and Human Services. Please see attached referral letter for more information.

EXEMPTION 5

Exemption 5 protects inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. Exemption 5 therefore incorporates the privileges that protect materials from discovery in litigation, including the deliberative process, attorney work-product, and attorney-client privileges. Information withheld under this exemption was protected under the deliberative process privilege. The deliberative process privilege protects the decision-making process of government agencies. The deliberative process privilege protects materials that are both predecisional and deliberative. The materials that have been withheld under the deliberative process privilege of Exemption 5 are both predecisional and deliberative, and do not contain or represent formal or informal agency policies or decisions. Examples of information withheld include predecisional draft materials.

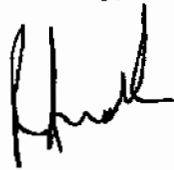
You may contact our FOIA Public Liaison at 770-488-6246 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services

Page 2 – Debbie Lerman

(OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is 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.

If you are not satisfied with the response to this request, you may administratively appeal to the Deputy Agency Chief FOIA Officer, Office of the Assistant Secretary for Public Affairs, U.S. Department of Health and Human Services, via the online portal at <https://requests.publiclink.hhs.gov/App/Index.aspx>. Your appeal must be electronically transmitted by November 16, 2023.

Sincerely,

A handwritten signature in black ink, appearing to read 'Roger Andob', is positioned above the typed name and title.

Roger Andob
CDC/ATSDR FOIA Officer
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

Enclosures

HQ-REF-23-00050



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control
and Prevention (CDC)
Atlanta GA 30333

August 18, 2023

Debbie Lerman
103 E. Cliveden St.
Philadelphia, Pennsylvania 19119

Dear Ms. Lerman:

This letter is to acknowledge receipt of your Centers for Disease Control and Prevention and Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Freedom of Information Act (FOIA) request of July 17, 2023, regarding the referral of your request from the Federal Emergency Management Agency (FEMA) for:

1. A document entitled "Phases of U.S. Government Response to the 2019 Novel Coronavirus (2019-nCoV)," dated February 11, 2020, and which is referred to at page 10 of the "PanCAP Adapted U.S. Government COVID-19 Response Plan," (March 13, 2020);
2. The NSC Resilience DRG PCC issued on February 24, 2020, and referred to at page 7 of the "PanCAP Adapted U.S. Government COVID-19 Response Plan," (March 13, 2020);
3. The COVID-19 Containment and Mitigation Strategy developed by the NSC and referred to on page 8 of the "PanCAP Adapted U.S. Government COVID-19 Response Plan," (March 13, 2020).

32 pages of your request have been referred to the Division of Freedom of Information for the Food and Drug Administration. The information you requested falls under their jurisdiction. Should you have questions about the status of your request, you may contact:

Department of Health and Human Services (HHS) Office of the Secretary (OS)
Freedom of Information Act Office
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201
Phone: 202-690-7453
Fax: 202-690-8320
HHS_FOIA_Public_Liaison@hhs.gov

Accordingly, we have closed your request to our office.

Sincerely,

Rachel Friend
CDC/ATSDR FOIA Office
Office of the Chief Operating Officer
(770) 488-6399
Fax: (404) 235-1852

HQ-REF-23-00050

CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

I. (a) PLAINTIFFS Deborah Lerman 103 East Clivenden Street Philadelphia, PA 19119 (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) _____ (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Mr. Gary M. Lawkowski Dhillon Law Group 2121 Eisenhower Avenue, Suite 608 Alexandria, VA 22314	DEFENDANTS Federal Emergency Management Agency, 500 C St. SW, Washington, DC, 20472; Centers for Disease Control, 1600 Clifton Rd., Atlanta, GA, 30329; U.S. Department of Health and Human Services, 200 Independence Avenue, SW, COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) _____ <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>																								
II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY) <input type="radio"/> 1 U.S. Government Plaintiff <input checked="" type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY: <table style="width: 100%; border: none;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input checked="" type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input checked="" type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (If not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) <i>*(If pro se, select this deck)*</i>	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) <i>*(If pro se, select this deck)*</i>	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C. § 552 et seq. & 28 U.S.C. §§ 2201 & 2202 seeking agency records responsive to Plaintiff's FOIA request.

VII. REQUESTED IN COMPLAINT	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
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VIII. RELATED CASE(S) IF ANY (See instruction) YES ☐ NO ☒ If yes, please complete related case form

DATE: December 20, 2023	SIGNATURE OF ATTORNEY OF RECORD /s/Gary M. Lawkowski
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.