

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

RECEIVED  
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LEARN FOR

Protect the Public's Trust

*Plaintiff*

v.

U.S. Department of Health and Human Services

*Defendant*

Civil Action No. 1:23-cv-02033

SUMMONS IN A CIVIL ACTION

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:

7/17/2023



/s/ Ro'Shaila Williams

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

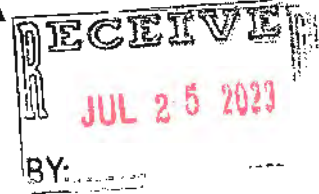
PROTECT THE PUBLIC'S TRUST  
712 H Street, N.E.  
Suite 1682  
Washington, D.C. 20002,

Plaintiff,

v.

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

Defendant.



Civil Case No. 1:23-cv-02033

**COMPLAINT**

1. Plaintiff brings this action against the U.S. Department of Health and Human Services under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and the Declaratory Judgement Act, 28 U.S.C. §§ 2201 and 2202, 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, 2201, and 2202.
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 Protect the Public's Trust ("PPT") is a nonprofit corporation dedicated to restoring public trust in government by promoting the fair and equal application of the rules and standards of ethical conduct to all public servants. Consistent with Justice Brandeis's

aphorism that “Sunlight is said to be the best of disinfectants; electric light the most efficient policeman,” PPT seeks to promote transparency and broadly disseminate information so that the American people can evaluate the integrity and ethical conduct of those who act in their name. Louis Brandeis, *OTHER PEOPLE’S MONEY AND HOW BANKERS USE IT* (1914), <https://louisville.edu/law/library/special-collections/the-louis-d.-brandeis-collection/other-peoples-money-chapter-v>.

5. Defendant U.S. Department of Health and Human Services (“HHS” or the “Department”) is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1). The Department has possession, custody, and control of records responsive to Plaintiff’s FOIA request.

#### **STATEMENT OF FACTS**

6. On February 10, 2023, PPT submitted a FOIA request (the “Request”) (attached as Exhibit A) seeking the following records from the Department:

1. From April 20, 2021, to August 12, 2021, records of communications between the HHS officials and White House officials identified below regarding Dr. Rick Bright, his whistleblower complaint, and the settlement of that complaint.

##### HHS Officials

- a) Officials in the Office of the General Counsel
- b) Officials in the Office of the Secretary

##### White House Officials

- a) Officials in the White House Counsel’s Office
- b) Anita Dunn

7. As Attorney General Garland has made clear, FOIA is “a vital tool for ensuring transparency, accessibility, and accountability in government” whose “‘basic purpose . . . is to ensure an informed citizenry,’ which is ‘vital to the functioning of a democratic society [and] needed to check against corruption and to hold the governors accountable to the governed.’” Merrick Garland, *Memorandum for Heads of Executive Departments and*

*Agencies: Freedom of Information Act Guidelines* 1 (Mar. 15, 2022), <https://www.justice.gov/ag/page/file/1483516/download> (quoting *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978)) (“Garland Memo”).

8. The release of these documents is in the public interest for the following reasons: 1) the subject of the Request concerns the operations and activities of the government; 2) disclosure is likely to contribute to the public’s understanding of government operations and activities because it would allow PPT to convey information to the public about communications between HHS and White House officials regarding Dr. Bright’s whistleblower complaint; 3) PPT’s synthesis and dissemination of disclosed documents would contribute to a broad audience of interested person’s understanding of the ethics waivers, impartiality decisions, and whistleblower decisions of HHS and the White House; and 4) disclosure is likely to contribute significantly to public understanding of government operations or activities because the requested documents are certain to shed light on HHS’s compliance with its own mission and responsibilities.
9. On February 13, 2023, the Department acknowledged receipt of PPT’s request via email, assigning the Request the case number 2023-00462-FOIA-OS.
10. On February 16, 2023, the Department sent PPT an email stating that the Request’s status had been updated to “On Hold – Need Info/Clarification.” The Department’s email did not state what information the Department required to process the Request.
11. On February 22, 2023, PPT responded to the Department’s email, noting that the Department’s email did not have an accompanying letter stating what the Department required to continue the search process.

12. On March 1, 2023, the Department responded to PPT's email with an email containing a clarification letter as an attachment. The letter attached to the Department's email was dated February 16, 2023. It stated that the Department required further information from PPT to process the Request: "[Y]ou have not described the records with enough specificity to allow us to continue with processing your request. **Specifically, the HHS individuals involved including the author and/or recipient of the correspondence.**" *Id.* (emphasis in the original). The letter explained that the Department could not run its records search without this information due to the Department's technological constraints.

13. On March 14, 2023, PPT replied to the Department's email from March 1, 2023, by sending a list of the following individuals to help facilitate the Department's search process:

Samuel Bagenstos, General counsel  
Dana Remus  
Xavier Becerra  
Sean McCluskie, Chief of Staff  
Peter Rechter, Senior Counsel  
Special Counsel to the General Counsel, Joel McElvain  
Principal Deputy General Counsel, Daniel J. Barry  
Deputy General Counsel, Mark Greenberg  
Deputy General Counsel, Paul Rodriguez  
Deputy General Counsel, Sean Keveney  
Deputy General Counsel, Katlin McKelvie Backfield  
Dawn O'Connell Assistant Secretary for Preparedness and Response  
Nikki Bratcher-Bowman, Principal Deputy Assistant Secretary and Chief Operating Officer  
Senior Counsel, Tara Ganapathy  
Kathryn Alvarez, Chief of Staff  
White House Counsel's Office, Alicia O'Brien, Senior Counsel

14. On March 17, 2023, the Department acknowledged receipt of this information. Later the same day, the Department sent an additional email accompanied by an acknowledgment letter.

15. The Department's acknowledgement letter stated that the Department required additional time to process the Request:

Because you seek records which require a search in another office, 'unusual circumstances apply to your request, automatically extending the time limit to respond to your request for ten additional days. See 5 U.S.C. 552 § (a)(6)(B)(i)-(iii) (2012 & Supp. V. 2017). Further, we estimate needing more than 10 additional days to respond to your request . . . .

16. On May 4, 2023, after waiting over 45 days for any response from the Department, PPT sent an email to the Department asking for an update on the Request. The Department never replied to this email.
17. To date, PPT has received neither a further response nor any other communication from the Department regarding the Request. The Department's last communication with PPT was its March 17, 2023, email containing the acknowledgement letter.
18. As the Garland Memo makes clear, "Timely disclosure of records is also essential to the core purpose of FOIA." Garland Memo at 3.
19. As the record described above indicates, over 140 days have elapsed since the Department acknowledged receipt of the Request, and over 115 days have elapsed since the Department acknowledged receipt of the clarifications it purportedly required to process the Request, yet the Department still has not determined whether it will comply with the Request. *See Citizens for Responsibility and Ethics in Washington v. FEC*, 711 F.3d 180 (D.C. Cir. 2013). The Department has not produced responsive documents to PPT, has not communicated to PPT the scope of the documents it intends to produce and withhold, along with the reasons for such withholding, and has not informed Plaintiff of its ability to appeal any adverse portion of its determination.

20. Given these facts, it appears that the Department has not and does not intend to meet its statutory obligations to provide the requested records absent litigation.
21. Through the Department's failure to make a determination within the time period required by law, PPT has constructively exhausted its administrative remedies and seeks immediate judicial review.

**COUNT I**

**Violation of FOIA, 5 U.S.C. § 552**  
**Wrongful Withholding of Non-Exempt Responsive Records**

22. PPT repeats and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
23. PPT properly submitted a request for records within the possession, custody, and control of the Department.
24. The Department 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.
25. The Department is wrongfully withholding non-exempt agency records requested by PPT by failing to produce non-exempt records responsive to its request.
26. The Department's failure to provide all non-exempt responsive records violates FOIA.
27. Plaintiff PPT is therefore entitled to declaratory and injunctive relief requiring Defendant 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**

Protect the Public's Trust respectfully requests this Court:

- (1) Assume jurisdiction in this matter and maintain jurisdiction until Defendant complies with the requirements of FOIA and any and all orders of this Court.
- (2) Order Defendant to produce, within ten days of the Court's order, or by other such date as the Court deems appropriate, any and all non-exempt records responsive to PPT's FOIA request and an index justifying the withholding of all or part of any responsive records withheld under claim of exemption.
- (3) Award PPT 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).
- (4) Grant PPT other such relief as the Court deems just and proper.

Dated: July 14, 2023

Respectfully submitted,

PROTECT THE PUBLIC'S TRUST  
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*





## PROTECT the PUBLIC'S TRUST

Freedom of Information Act

February 10, 2023

FOIA Officer/Director,  
Freedom of Information and Privacy Acts Division,  
Hubert H. Humphrey Bldg, Suite 729H  
200 Independence Avenue, SW  
Washington, DC 20201  
[FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov)

**Re: Communications regarding Rick Bright**

Dear FOIA Officer,

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, *as amended* (FOIA), from the Protect the Public's Trust (PPT), a nonpartisan organization dedicated to promoting ethics in government and restoring the public's trust in government officials. In August 2021 news reports revealed "Rick Bright, the virologist who claimed the Trump administration retaliated against him [in 2020] by ousting him from his job, has settled his whistle-blower complaint against the federal government and will receive back pay and compensation." While officials at the Department of Health and Human Services publicly "denied any wrongdoing," the White House took the unusual step of "praising" Dr. Bright, an adversary in an action against the government, when confirming the settlement.<sup>1</sup>

**Records Requested**

PPT requests the following records from the U.S. Department of Health and Human Services (HHS):

1. From April 20, 2021, to August 12, 2021, records of communications between the HHS officials and White House officials identified below regarding Dr. Rick Bright, his whistleblower complaint, and the settlement of that complaint.

HHS officials

- a) Officials in the Office of the General Counsel
- b) Officials in the Office of the Secretary

White House officials

- a) Officials in the White House Counsel's Office
- b) Anita Dunn

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<sup>1</sup> <https://www.nytimes.com/2021/08/09/us/politics/rick-bright-whistleblower.html>



## PROTECT the PUBLIC'S TRUST

The term “records” includes emails (with attachments) but also refers to other documents and items, such as text messages; invitations, communications, and chats from meeting applications such as Zoom and Microsoft Teams; encrypted apps such as Signal, WhatsApp, Wikr Me, and others; phone records; as well as communications on collaboration platforms such as Slack.

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under the FOIA unless the agency reasonably believes release of the information will harm an interest that is protected by the exemption. FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

Should you decide to invoke a FOIA exemption, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger which includes:

1. Basic factual material about each withheld record, including the originator, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld material. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and mail the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

PPT is willing to receive records on a rolling basis.

To facilitate this request, we request that the FOIA office use the Agency’s enterprise records management system to search and process this request:

Finally, FOIA’s “frequently requested record” provision was enacted as part of the 1996 Electronic Freedom of Information Act Amendments and requires all federal agencies to give “reading room” treatment to any FOIA-processed records that, “because of the nature of their subject matter, the agency determines have become the subject of subsequent requests for substantially the same records.” 5 U.S.C. § 552(a)(2)(D)(ii)(I). Also, enacted as part of the 2016 FOIA Improvement Act, FOIA’s Rule of 3 requires all federal agencies to proactively “make available for public inspection in an electronic format” “copies of records, regardless of form or format ... that have been released to any person ... and ... that have been requested 3 or more times.” 5 U.S.C. § 552(a)(2)(D)(ii)(I).



## PROTECT the PUBLIC'S TRUST

Therefore, we respectfully request that you make available online any records that the agency determines will become the subject of subsequent requests for substantially the same records, and records that have been requested three or more times.

### **Format of Requested Records**

Under FOIA, you are obligated to provide records in a readily accessible electronic format and in the format requested. See, e.g., 5 U.S.C. § 552(a)(3)(B) (“In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format.”). “Readily accessible” means text-searchable and OCR-formatted. See 5 U.S.C. § 552(a)(3)(B). We ask that you please provide all records in an electronic format. Additionally, please provide the records either in (1) load-ready format with a CSV file index or Excel spreadsheet, or; (2) for files that are in .PDF format, without any “portfolios” or “embedded files.” Portfolios and embedded files within files are not readily accessible. Please do not provide the records in a single, or “batched,” .PDF file. We appreciate the inclusion of an index.

If you should seek to withhold or redact any responsive records, we request that you: (1) identify each such record with specificity (including date, author, recipient, and parties copied); (2) explain in full the basis for withholding responsive material; and (3) provide all segregable portions of the records for which you claim a specific exemption. 5 U.S.C. § 552(b). Please correlate any redactions with specific exemptions under FOIA.

### **Fee Waiver Request**

FOIA was designed to provide citizens a broad right to access government records. FOIA’s basic purpose is to “open agency action to the light of public scrutiny,” with a focus on the public’s “right to be informed about what their government is up to.” *U.S. Dep’t of Justice v. Reporters Comm. for Freedom of Press*, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA’s fee waiver provision requires that “[d]ocuments shall be furnished without any charge or at a [reduced] charge,” if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA’s fee waiver requirement is “liberally construed.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *Forest Guardians v. U.S. Dept. of Interior*, 416 F.3d 1173, 1178 (10th Cir. 2005).

The 1986 fee waiver amendments were designed specifically to provide organizations access to government records without the payment of fees. Indeed, FOIA’s fee waiver provision was intended “to prevent government agencies from using high fees to discourage certain types of requesters and requests,” which are “consistently associated with requests from journalists, scholars, and non-profit public interest groups.” *Entlinger v. FBI*, 596 F.Supp. 867, 872 (D. Mass. 1984) (emphasis added). As one Senator stated, “[a]gencies should not be allowed to use fees as an offensive weapon against requesters



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seeking access to Government information ....” 132 Cong. Rec. S. 14298 (statement of Senator Leahy).

### I. PPT Qualifies for a Fee Waiver.

Under FOIA, a party is entitled to a fee waiver when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). The HHS FOIA regulations at 45 CFR § 5.54(b) establish the same standard.

Thus, HHS must consider four factors to determine whether a request is in the public interest: (1) whether the subject of the requested records concerns “the operations or activities of the Federal government,” (2) whether the disclosure is “likely to contribute” to an understanding of government operations or activities, (3) whether the disclosure “will contribute to public understanding” of a reasonably broad audience of persons interested in the subject, and (4) whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities. 45 CFR § 5.54(b). As shown below, PPT meets each of these factors.

#### A. The Subject of This Request Concerns “The Operations and Activities of the Government.”

The subject matter of this request concerns the operations and activities of the HHS. This request asks for: records of communications regarding Dr. Rick Bright, his whistleblower complaint, and its settlement.

#### B. Disclosure is “Likely to Contribute” to an Understanding of Government Operations or Activities.

The requested records are meaningfully informative about government operations or activities and will contribute to an increased understanding of those operations and activities by the public. Disclosure of the requested records will allow PPT to convey to the public information about the communications between HHS and White House officials regarding Dr. Rick Bright’s whistleblower complaint.

After disclosing the requested records, PPT will inform the public about their findings in order to ensure decisions are being made consistently with the law. Once the information is made available, PPT will analyze it and present it to its followers and the general public in a manner that will meaningfully enhance the public’s understanding of this topic.

Thus, the requested records are likely to contribute to an understanding of HHS operations and activities.



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### C. Disclosure of the Requested Records Will Contribute to a Reasonably Broad Audience of Interested Persons' Understanding of Operations at the Department of Health and Human Services.

The requested records will contribute to public understanding of operations at the Department of Health and Human Services. As explained above, the records will contribute to public understanding of this topic.

Dr. Rick Bright, the former director of the Biomedical Advanced Research and Development Authority, filed a whistleblower complaint in late April of 2020.<sup>2</sup> His complaint came shortly after his transfer to a "less impactful position" at the National Institutes of Health. Bright claimed the demotion was because of his reluctance to promote the use of drugs such as hydroxychloroquine to treat COVID-19.<sup>3</sup> The requested records will allow PPT to convey to the public conversations within the Biden Administration, which made it a point to reverse the legacy of its predecessor.<sup>4</sup> Additionally, these records will shed light on the conversations that occurred between HHS officials and White House officials regarding Mr. Bright's 2020 whistleblower complaint. See *W. Watersheds Proj. v. Brown*, 318 F.Supp.2d 1036, 1040 (D. Idaho 2004) ("... find[ing] that WWP adequately specified the public interest to be served, that is, educating the public about the ecological conditions of the land managed by the BLM and also how ... management strategies employed by the BLM may adversely affect the environment.").

Through PPT's synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. *Ettlinger v. FBI*, 596 F.Supp. at 876 (benefit to a population group of some size distinct from the requester alone is sufficient); *Carney v. Dep't of Justice*, 19 F.3d 807, 815 (2d Cir. 1994), cert. denied, 513 U.S. 823 (1994) (applying "public" to require a sufficient "breadth of benefit" beyond the requester's own interests); *Cnty. Legal Servs. v. Dep't of Hous. & Urban Dev.*, 405 F.Supp.2d 553, 557 (E.D. Pa. 2005) (in granting fee waiver to community legal group, court noted that while the requester's "work by its nature is unlikely to reach a very general audience," "there is a segment of the public that is interested in its work").

Indeed, the public does not currently have an ability to easily evaluate the requested records, which concern communications between HHS officials and White House officials. We are also unaware of any previous release to the public of these or similar records. See *Cnty. Legal Servs. v. HUD*, 405 F.Supp.2d 553, 560 (D. Pa. 2005) (because

<sup>2</sup> <https://www.nytimes.com/2021/08/09/us/politics/rick-bright-whistleblower.html>

<sup>3</sup> <https://www.politico.com/news/2020/10/06/hhs-whistleblower-rick-bright-resigns-426895>

<sup>4</sup> <https://www.cnn.com/2021/01/20/politics/executive-actions-biden/index.html>



## PROTECT the PUBLIC'S TRUST

requested records “clarify important facts” about agency policy, “the CLS request would likely shed light on information that is new to the interested public.”). As the Ninth Circuit observed in *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1286 (9th Cir. 1987), “[FOIA] legislative history suggests that information [has more potential to contribute to public understanding] to the degree that the information is new and supports public oversight of agency operations....”

Disclosure of these records is not only “likely to contribute,” but is certain to contribute, to public understanding of the communications regarding Rick Bright’s whistleblower complaint. The public is always well served when it knows how the government conducts its activities. Hence, there can be no dispute that disclosure of the requested records to the public will educate the public about the ethics waivers and impartiality decisions issued to those charged with running HHS.

### D. Disclosure is Likely to Contribute Significantly to Public Understanding of Government Operations or Activities.

PPT is not requesting these records merely for their intrinsic informational value. Disclosure of the requested records will significantly enhance the public’s understanding of the operations and activities at HHS as compared to the level of understanding prior to disclosure. Indeed, public understanding will be significantly increased as a result of disclosure.

The records are also certain to shed light on HHS’s compliance with its own mission and responsibilities. Such public oversight of agency action is vital to our democratic system and clearly envisioned by the drafters of the FOIA. Thus, PPT meets this factor as well.

### II. PPT Has the Ability to Disseminate the Requested Information Broadly.

PPT is a nonpartisan organization that informs, educates, and counsels the public about the importance of government officials acting consistently with their ethics obligations. A key component of being able to fulfill this mission and educate the public about these duties is access to the requested communications. PPT intends to publish information from requested records on its website, distribute the records and expert analysis to its followers through social media channels including Twitter, Facebook, and other similar platforms. PPT also has a robust network of reporters, bloggers, and media publications interested in its content and that have durable relationships with the organization. PPT intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

Through these means, PPT will ensure: (1) that the information requested contributes significantly to the public’s understanding of the government’s operations or activities; (2) that the information enhances the public’s understanding to a greater degree than currently exists; (3) that PPT possesses the expertise to explain the requested information



## PROTECT the PUBLIC'S TRUST

to the public; (4) that PPT possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes PPT as a reliable source in the field of government ethics and conduct.

Public oversight and enhanced understanding of HHS's duties is absolutely necessary. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information to a reasonably broad audience of persons interested in the subject. *Carney v U.S. Dept. of Justice*, 19 F.3d 807 (2nd Cir. 1994). PPT need not show how it intends to distribute the information, because "[n]othing in FOIA, the [agency] regulation, or our case law require[s] such pointless specificity." *Judicial Watch*, 326 F.3d at 1314. It is sufficient for PPT to show how it distributes information to the public generally. *Id.*

### III. Obtaining the Requested Records is of No Commercial Interest to PPT.

Access to government records, disclosure forms, and similar materials through FOIA requests is essential to PPT's role of educating the general public. PPT is a nonpartisan organization with supporters and members of the public who seek a transparent, ethical and impartial government that makes decisions in the best interests of all Americans, not former employers and special interests. PPT has no commercial interest and will realize no commercial benefit from the release of the requested records.

### IV. Conclusion

For all of the foregoing reasons, PPT qualifies for a full fee waiver. We hope that HHS will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at [foia@protectpublictrust.org](mailto:foia@protectpublictrust.org). All records and any related correspondence should be sent to my attention at the address below.

Sincerely,

Morgan Yardis  
Research and Publication Associate  
[foia@protectpublictrust.org](mailto:foia@protectpublictrust.org)

## CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<b>I. (a) PLAINTIFFS</b> Protect the Public's Trust 712 H Street, N.E. Suite 1682 Washington, D.C. 20002	<b>DEFENDANTS</b> U.S. Department of Health and Human Services 200 Independence Avenue, S.W. Washington, D.C. 20201
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)	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>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Mr. Gary M. Lawkowski Dhillon Law Group 2121 Eisenhower Avenue, Suite 608 Alexandria, VA 22314	ATTORNEYS (IF KNOWN) U.S. Attorney's Office for the District of Columbia Civil Division 601 D Street, N.W. Washington, DC 20530

<b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>																								
<div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="radio"/> 1 U.S. Government Plaintiff           </div> <div style="width: 48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)           </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant           </div> <div style="width: 48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)           </div> </div>	<table style="width: 100%; border-collapse: collapse;"> <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
	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																				
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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"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  <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"/> <b>C. Administrative Agency Review</b>  <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"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  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"/> <b>E. General Civil (Other)</b> OR <input type="radio"/> <b>F. Pro Se General Civil</b>			
<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"/> <b>G. Habeas Corpus/ 2255</b>  <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"/> <b>H. Employment Discrimination</b>  <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"/> <b>I. FOIA/Privacy Act</b>  <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"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <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"/> <b>L. Other Civil Rights (non-employment)</b>  <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"/> <b>M. Contract</b>  <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"/> <b>N. Three-Judge Court</b>  <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.

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

**DATE:** July 14, 2023      **SIGNATURE OF ATTORNEY OF RECORD** /s/Gary M. Lawkowski

**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.

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE  
**CERTIFIED MAIL®**



7022 3330 0001 0766 7250

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

**1. Article Addressed to:**

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



9590 9402 7859 2234 6239 44

**2. Article Number (Transfer from service label)**

7022 3330 0001 0766 7250

PS Form 3811, July 2020 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

**A. Signature**

**X**

- ☐ Agent  
☐ Addressee

**B. Received by (Printed Name)**

**C. Date of Delivery**

- D. Is delivery address different from item 1?** ☐ Yes  
delivery address below: ☐ No

**3. Service Type**

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                         | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery     | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Certified Mail®                         | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery      | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery                     | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery |   |

Mail  
Mail Restricted Delivery  
(DO)

Domestic Return Receipt

Health and Human Services  
General Counsel  
200 Independence Avenue, S.W.  
Washington, D.C. 20201

