

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

DEMOCRACY FORWARD FOUNDATION,

Plaintiff,

v.

U.S. DEPARTMENT OF AGRICULTURE,

Defendant.

Civ. Action No. 19-cv-1459 (TJK)

ANSWER

Defendant, the United States Department of Agriculture (“USDA” or “Defendant”), by and through counsel, hereby answers the allegations in the corresponding enumerated paragraphs in the Complaint as follows:

RESPONSES

1. This paragraph contains Plaintiff’s characterization of this action and conclusions of law, not allegations of fact, to which no response is required. To the extent a response is required, Defendant admits that this action is an action under the Freedom of Information Act (“FOIA”) and that the Complaint seeks to compel production of records in response to Plaintiff’s FOIA request. The remaining allegations in Paragraph 1 are Plaintiff’s characterizations of its FOIA request, to which the Defendant refers this Court for a true and accurate statement of its contents.

JURISDICTION AND VENUE

2. This paragraph states a legal conclusion regarding jurisdiction to which no response is required. To the extent a response is required, Defendant admits that the Court has

jurisdiction over this action pursuant to FOIA, 5 U.S.C. §52(a)(4)(B), as limited by the relief available under FOIA.

3. This paragraph states a legal conclusion regarding venue to which no response is required. Defendant admits that venue is proper in this District pursuant to FOIA, 5 U.S.C. §52(a)(4)(B).

4. This paragraph states a legal conclusion regarding venue to which no response is required. Defendant admits that Plaintiff has generally exhausted its administrative remedies for this action pursuant to the FOIA.

PARTIES

5. Defendant is without sufficient information to admit or deny the allegations in Paragraph 5.

6. Defendant admits that the USDA is an agency of the United States headquartered in Washington D.C. Defendant is processing Plaintiff's FOIA request and is currently without sufficient information to admit or deny the allegations regarding the Defendant's possession of responsive records. To the extent that a response is required, Defendant denies the allegation.

FACTUAL BACKGROUND

7. Defendant admits that Plaintiff submitted FOIA request, dated January 18, 2019, to Defendant.

8. The allegations in Paragraph 8 contain Plaintiff's characterizations of its FOIA request to which no response is required. To the extent that a response is required, Defendant admits and refers this Court to the Plaintiff's FOIA request for a complete, true, and accurate statement of its contents.

9. The allegations in Paragraph 9 contain Plaintiff's characterizations of its FOIA request to which no response is required. To the extent that a response is required, Defendant admits and refers this Court to the Plaintiff's FOIA request for a complete, true, and accurate statement of its contents.

10. Defendant admits that Plaintiff was sent an acknowledgement letter, dated January 30, 2019, from the USDA's Food and Nutrition Service ("FNS"). Defendant denies the remaining allegations in Paragraph 10.

11. Defendant admits that the FNS contacted Plaintiff regarding narrowing the request. Defendant further admits that USDA has made only one production of documents. The remaining allegations of Paragraph 11 are Plaintiff's editorial characterization of the facts to which no response is required.

12. Defendant admits that it has not notified Plaintiff of the scope of any responsive records, whether additional documents are forthcoming, whether any documents are exempt from production, the reasons for withholding documents, if any, or that Plaintiff may appeal any adequately specific, adverse determination. The remaining allegations of Paragraph 12 are Plaintiff's editorial characterization of the facts to which no response is required.

13. The allegations in Paragraph 13 contain Plaintiff's characterizations of its legal position and conclusions of law to which no response is required. To the extent that a response is required, Defendant is processing Plaintiff's FOIA request and is currently without sufficient information to admit or deny the allegations regarding the Defendant's possession of responsive records. To the extent that a response is required, Defendant admits that Plaintiff has generally exhausted its administrative remedies for this action pursuant to the FOIA.

CLAIMS FOR RELIEF

14. Defendant incorporates its responses set forth above.

15. The allegations in Paragraph 15 contain Plaintiff's characterizations of its legal position and conclusions of law to which no response is required. To the extent that a response is required, Defendant is processing Plaintiff's FOIA request and is currently without sufficient information to admit or deny the allegations regarding the Defendant's possession of responsive records. To the extent that a response is required, Defendant denies.

REQUESTED RELIEF

The remaining paragraphs contain Plaintiff's prayer for relief to which no response is required. To the extent that a response is required, Defendant denies that Plaintiff is entitled to the relief requested. Pursuant to Rule 8(b) of the Federal Rules of Civil Procedure, Defendant asserts a general denial as to those allegations contained in the Complaint that are not specifically admitted herein. Defendant further reserves the right to amend, alter and supplement its responses and defenses contained in this Answer as the facts and circumstances become known to Defendant.

DEFENSES

Without waiving, limiting, modifying or amending the foregoing, Defendant asserts the following additional and affirmative defenses, in the alternative where appropriate, and to the extent the pleadings and the evidence so indicate.

FIRST DEFENSE

To the extent Plaintiff's FOIA request seek matters that are not "agency records," the Court lacks subject matter jurisdiction to compel the agency to produce such matters.

SECOND DEFENSE

To the extent Plaintiff's FOIA request seek matters that are not "agency records," the Complaint fails to state a claim upon which relief can be granted with respect to such matters.

THIRD DEFENSE

Defendant is exercising due diligence in responding to Plaintiff's FOIA request; however, exceptional circumstances exist that necessitate additional time for Defendant to produce records in response to Plaintiff's FOIA request.

FOURTH DEFENSE

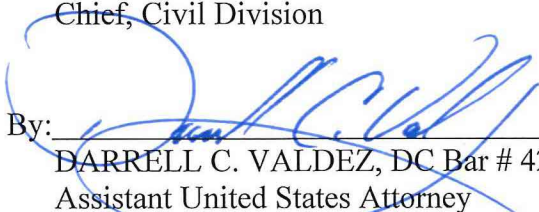
To the extent that some of the information contained in the records sought by Plaintiff are exempt from disclosure under one or more exemptions of FOIA, 5 U.S.C. § 552, subparagraph (b), Defendant will identify those exemptions when Defendant completes its search for and review of records that may be responsive to Plaintiff's FOIA request.

Respectfully submitted,

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