

Plaintiff regularly requests records from federal agencies, analyzes the responses it receives, and disseminates its findings and the records to the American public to inform them about “what their government is up to.”

4. Defendant U.S. Department of Homeland Security (“DHS”) is an agency of the U.S. Government and is headquartered at 2707 Martin Luther King Jr. Avenue SE, Mailstop 0485, Washington, DC 20528-0485. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On February 17, 2023, Plaintiff submitted a FOIA request via certified mail and facsimile to DHS seeking the following records:

Records and communications of the National Biosurveillance Integration Center (NBIC), Office of Health Affairs, DHS of the following current or former employees (1) Heather Poindexter, email address, heather.poindexter@hq.dhs.gov (2) LCDR Reajul Mojumder, email address, Reajul.Mojumder@hq.dhs.gov (3) Teresa Quitugua, email address, teresa.quitugua@hq.dhs.gov regarding:

- A. Ground Network Project**
- B. PIID HSHQDC16C00113**
- C. HSHQDC16C00113**
- D. HSHQDC-16-R-00116**
- E. EcoHealth Alliance interface with NBIC analysts through written documents (e.g., emails, written reports, maps, data, etc.), oral communication (e.g., phone calls, conference call, etc.), and face-to-face meetings.**
- F. Any requests for information (RFIs) sent to EcoHealth Alliance and any responses to RFIs from EcoHealth Alliance**

- G. Plans detailing Subject Matter Experts (SMEs) available to NBIC and the process for direct and indirect communications with SMEs.**
- H. Credibility of the source(s) from whom any information was obtained under Ground Truth Network**
- I. Concurrence and / or Closeout letters from DHS to EcoHealth Alliance**

This requests also includes communications or interface of DHS NBIC employees with the DHS Office of Intelligence and Analysis (DHS I&A) regarding:

- (1) Construction or editing of the Ground Truth Network RFP, grant or contract.**
- (2) Information shared between NBIC and DHS I&A received from EcoHealth Alliance or Ground Truth Network.**

The time frame for the requested records was identified as “January 1, 2016 to present.”

6. By email dated March 8, 2023, Defendant acknowledged receipt of the request on February 17, 2023, conditionally granted a fee waiver, and invoked FOIA’s 10-day extension of time provision for “unusual circumstances.”

7. As of the date of this Complaint, Defendant has failed to: (i) determine whether to comply with the requests; (ii) notify Plaintiff of any such determination or the reasons therefor; or (iii) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

- 8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.
- 9. Defendant is in violation of FOIA.

10. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

11. Plaintiff has no adequate remedy at law.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make final determinations on Plaintiff's request by March 31, 2023, at the latest. Because Defendant failed to make final determinations on Plaintiff's requests within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct a search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff's FOIA requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's FOIA requests and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA requests; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: June 26, 2023

Respectfully submitted,

/s/ Meredith Di Liberto

MEREDITH DI LIBERTO

D.C. Bar No. 487733

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