

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

AMERICA FIRST LEGAL FOUNDATION  
611 Pennsylvania Ave SE #231  
Washington, DC 20003

*Plaintiff,*

v.

U.S. DEPARTMENT OF AGRICULTURE  
1400 Independence Ave SW  
Washington, DC 20250,

U.S. DEPARTMENT OF EDUCATION  
400 Maryland Ave SW  
Washington, DC 20202,

U.S. DEPARTMENT OF ENERGY  
1000 Independence Ave SW  
Washington, DC 20585,

U.S. ENVIRONMENTAL PROTECTION  
AGENCY  
1200 Pennsylvania Ave NW  
Washington, DC 20460,

U.S. DEPARTMENT OF HEALTH AND  
HUMAN SERVICES  
200 Independence Ave SW  
Washington, DC 20201,

U.S. DEPARTMENT OF HOMELAND  
SECURITY  
2707 Martin Luther King Jr Ave SE  
Washington, DC 20528-0525,

U.S. DEPARTMENT OF THE INTERIOR  
1849 C Street NW  
Washington, DC 20240,

U.S. DEPARTMENT OF LABOR  
200 Constitution Ave NW  
Washington, DC 20210,

Civil Action No.: 1:22-cv-3029

U.S. SMALL BUSINESS  
ADMINISTRATION  
409 3rd St SW  
Washington, DC 20416,

U.S. DEPARTMENT OF STATE  
2201 C St NW  
Washington, DC 20520, *and*

U.S. DEPARTMENT OF  
TRANSPORTATION  
1200 New Jersey Ave SE  
Washington, DC 20590

*Defendants.*

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. Plaintiff America First Legal Foundation (“AFL”) brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), to compel the production of records in the possession of Defendants U.S. Department of Agriculture (“USDA”), U.S. Department of Education (“ED”), U.S. Department of Energy (“DOE”), U.S. Environmental Protection Agency (“EPA”), U.S. Department of Health and Human Services (“HHS”), U.S. Department of Homeland Security (“DHS”), U.S. Department of the Interior (“DOI”), U.S. Department of Labor (“DOL”), U.S. Small Business Administration (“SBA”), U.S. Department of State (“DOS”), and U.S. Department of Transportation (“DOT”) (collectively, “Defendants”).

2. Executive Order 14019, “Promoting Access to Voting,” called for each agency to submit to a “Strategic Plan” for using social media companies to promote mail-in voting schemes; expanding “multilingual voter registration and election information”; and using federal agencies for distributing voter registration and mail-in ballots, “soliciting and facilitating approved, nonpartisan third-party organizations

and State officials” to provide voter registration services on agency premises, and “assisting” voters “in completing voter registration and vote-by-mail ballot application forms.” Exec. Order No. 14,019, 86 Fed. Reg. 13,623 (Mar. 10, 2021).

3. On September 28, 2021 and December 8, 2021, the White House publicly highlighted examples of these federal agency efforts. *See* FACT SHEET: Biden Administration Promotes Voter Participation with New Agency Steps, White House (Sep. 28, 2021), available at <https://tinyurl.com/2zejsch9>; FACT SHEET: The Biden-Harris Administration is Taking Action to Restore and Strengthen American Democracy, White House (Dec. 8, 2021), available at <https://tinyurl.com/mrxt2wwv>.

4. The Biden administration’s efforts to turn federal agencies into partisan voting operations, and to fortify politically aligned private organizations working to circumvent state election integrity laws with federal taxpayer dollars, have raised significant public corruption concerns and triggered multiple Congressional investigations. Mollie Hemingway, *Yes, Biden Is Hiding His Plan to Rig the 2022 Midterm Elections*, FEDERALIST (June 23, 2022), <https://tinyurl.com/msjk8nz7>.

5. On January 19, 2022, thirty-six Members of Congress asked the Office of Management and Budget to disclose by February 22, 2022, a copy of each agency’s strategic plan; the basis, criteria, and approval authority by which third party organizations would be approved to conduct voter registration activities on federal agency premises; who specifically within OMB is reviewing and approving these plans; and the role of OMB-OIRA Senior Counsel K. Sabeel Rahman, former President of a leftist 501(c)(3) front group called “Demos”, in the approval or review

of the Executive Order and the agency plans. According to Congress, “A cursory review of [Executive Order 14,109] reveals a striking similarity between what this EO calls for and the plan developed by Demos and published on their website in December 2020. What is more, the Demos plan also called for the weaponization of the DOJ to be used as a tool to attack opponents who stand in the way of attempts to federalize elections.” Letter from Ted Budd, Rep., et al., to Shalanda Young, Dir., Off. of Mgmt. and Budget (Jan. 19, 2022), available at <https://tinyurl.com/4hmya9z2>.

6. The Office of Management and Budget did not comply.

7. On January 20, 2022, the Small Business Administration (SBA) announced that it was the first federal agency to apply to be a voter agency. Within this announcement, the SBA stated that “through the SBA’s district offices, small business owners and others will have the services they need to ensure their voices are heard at the ballot box and fair representation for their communities.” However, SBA’s mission is to assist small businesses with growing, expanding, and creating jobs – the sole federal agency dedicated to this task.

8. On March 23, 2022, the United States Department of Agriculture’s Food and Nutrition Service sent four letters to state agencies to encourage them to provide local program operators with promotional materials, including voter registration information. While the Supplemental Nutrition Assistance Program (SNAP) letter reiterates existing responsibilities under the National Voter Registration Act, the legal basis for the Department’s direction that “the cost of providing voter registration

services, including application processes and training for staff, are allowable SNAP administrative expenses and are reimbursed at the 50 percent level” is not clear.

9. On March 29, 2022, nine ranking Members in the House of Representatives wrote to Susan Rice, in her capacity as the Director of the Domestic Policy Council, and to the Office of Management and Budget, requesting, by April 29, 2022, written disclosure of, *inter alia*, the criteria for approving third-party organizations to provide voter registration services on federal premises; a list of approved third-party organizations; a list of the states that have requested assistance for voter registration from federal agencies; the approved strategic plans; and the statutory authorities enabling federal agencies to engage in voter registration and share election information. Rodney Davis, Ranking Member, H. Comm. on H. Administration, et al., to Susan Rice, Dir., Domestic Pol’y Council & Shalanda Young, Dir., Off. of Mgmt. and Budget (Mar. 29, 2022), available at <https://tinyurl.com/yc2bsjrn>. *See also*, U.S. Const. art. I, § 4, cl. 1, which primarily assigned states with the power to establish election laws and administer elections, while delegating a complementary federal legislative role to Congress, not the President.

10. However, neither the Domestic Policy Council nor the Office of Management and Budget complied.

11. Government action that mobilizes voter registration and funds get-out-the-vote efforts necessarily risk constitutional violations under the Equal Protection Clause. *See Bush v. Gore*, 531 U.S. 98, 104–05 (2000), explaining the Equal Protection

Clause requires both that the right to vote be granted on equal terms, but also that the state “not, by later arbitrary and disparate treatment, value one person’s vote over that of another.”

12. Accordingly, on June 10, 2022, AFL sent Defendants FOIA requests specifically seeking one specific document, their “Strategic Plans.”

13. None of the Defendants have complied.

14. With the midterm election nearly approaching, the government continues to obstruct investigations into its plans relating to the executive order. *See also*, Found. for Gov’t Accountability, *DOJ Continues to Redact, Suppress Crucial Documents Involving Voter Registration Projects* (Sep. 11, 2022), <https://tinyurl.com/4hhvx59x>.

15. AFL now seeks to compel Defendants to comply with its duties under FOIA, and to produce, by a date certain set by this Court, all non-exempt responsive records, or, if no such records exist, an acknowledgement to that effect.

### **JURISDICTION AND VENUE**

16. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331. Additionally, it may grant declaratory relief pursuant to 28 U.S.C. § 2201, *et seq.*

17. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

## **PARTIES**

18. AFL is a nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, ensure due process and equal protection for all Americans, and encourage public knowledge and understanding of the law and individual rights guaranteed under the United States Constitution and the laws of the United States. AFL's mission includes promoting government transparency and accountability by gathering official information, analyzing it, and disseminating it through reports, press releases, and/or other media, including social media platforms, all to educate the public. All the records AFL receives will be made publicly available on AFL's website for citizens, journalists, and scholars to review and use.

19. Defendant USDA is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

20. Defendant ED is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

21. Defendant DOE is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

22. Defendant EPA is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

23. Defendant HHS is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

24. Defendant DHS is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

25. Defendant DOI is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

26. Defendant DOL is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

27. Defendant SBA, located within the District of Columbia, is an agency of the federal government within the meaning of 5 U.S.C. § 552(f) and has possession and control of the records AFL seeks.

28. Defendant DOS is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

29. Defendant DOT is an agency of the federal government within the meaning of 5 U.S.C. § 552(f), located within the District of Columbia, and has possession and control of the records AFL seeks.

### **AFL'S NARROWLY TAILORED FOIA REQUESTS**

#### **USDA Request (2022-OSEC-04028-F)**

30. AFL submitted a FOIA request to USDA on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. A.

31. On July 22, 2022 USDA sent an e-mail to AFL acknowledging receipt of the FOIA request and assigning it FOIA Case No. 2022-OSEC-04028-F. *See* Ex. B.

32. In that response, USDA stated it has categorized AFL as a “news media” requester for purposes of fee assessment. *See id.*

33. On August 2, 2022, AFL sent USDA an e-mail requesting an update on the status of the request. *See id.*

34. As of the date of this Complaint, AFL has received no further response from USDA about this FOIA request.

#### **ED Request (22-02932-F)**

35. AFL submitted a FOIA request to ED on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. C.

36. On June 23, 2022, ED sent a letter granting AFL's request for a fee waiver. *See* Ex. D.

37. On July 11, 2022, ED sent an "initial determination letter" to AFL stating, "We aim to complete your requests as promptly as possible." *See* Ex. E.

38. On August 2, 2022, AFL sent an e-mail to ED requesting a status update on the request. *See* Ex. F.

39. On August 2, 2022, ED responded by e-mail, stating that "Your request is currently under final processing review." *See* Ex. G.

40. As of the date of this Complaint, AFL has received no further response from ED about this FOIA request.

#### **DOE Request (HQ-2022-00947-F)**

41. AFL submitted a FOIA request to DOE on June 10, 2022, requesting "The Department's 'strategic plan,' that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on 'Promoting Access to Voting,' to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021." *See* Ex. H.

42. On August 2, 2022, AFL sent an e-mail to DOE requesting the status of the request and DOE's tracking code for the request. *See* Ex. I.

43. On August 3, 2022, DOE responded by e-mail, stating that "Once the responsive records are located they will undergo our layer review for sensitivities and legal review." The e-mail also indicated that "Upon completion of legal review [DOE's] hope is to provide you with a response by end of this month." *See* Ex. J.

44. In that e-mail, DOE also attached an Interim Letter which categorized AFL as a “news media” requester for purposes of assessment of any fees. *See* Ex. K.

45. As of the date of this Complaint, AFL has received no further response from DOE about this FOIA request.

**EPA Request (EPA-2022-004717)**

46. AFL submitted a FOIA request to EPA on June 10, 2022, requesting “The Agency’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. L at 7.

47. On June 10, 2022, EPA sent a letter to AFL stating the request was assigned for processing and assigned tracking number EPA-2022-004717. *See* Ex. M.

48. On June 30, 2022, EPA sent another letter denying AFL’s fee waiver request. *See* Ex. L at 12.

49. On July 28, 2022, AFL sent a letter appealing EPA’s denial of AFL’s request for a fee waiver. *See* Ex. L.

50. On August 1, 2022, EPA sent a letter to AFL stating that it determined that the request will not generate fees, so EPA was “closing your fee waiver appeal file as moot.” *See* Ex. N.

51. As of the date of this Complaint, AFL has received no further response from EPA about this FOIA request.

**HHS Request (2022-00848-FOIA-OS)**

52. AFL submitted a FOIA request to HHS on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. O.

53. On June 10, 2022, HHS sent a letter to AFL acknowledging receipt of the FOIA request. *See* Ex. P.

54. On June 13, 2022, HHS sent another letter to AFL stating that “The Office of the White House Liaison conducted a search and reports there are no records responsive to your request.” *See* Ex. Q.

55. On August 31, 2022, AFL sent a letter appealing HHS’s response because “HHS has not shown it conducted an adequate search for records.” *See* Ex. R.

56. On September 2, 2022, HHS sent a letter to AFL acknowledging receipt of AFL’s appeal. *See* Ex. S.

57. As of the date of this Complaint, AFL has received no further response from HHS about this FOIA request.

**DHS Request (2022-HQFO-01205)**

58. AFL submitted a FOIA request to DHS on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. T.

59. On August 2, 2022, AFL sent DHS an e-mail requesting an update on the status of the request. *See* Ex. U.

60. As of the date of this Complaint, AFL has received no further response from DHS about this FOIA request.

**DOI Request (DOI-OS-2022-004193)**

61. AFL submitted a FOIA request to DOI on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. V.

62. On June 13, 2022 DOI sent a letter to AFL acknowledging receipt of the FOIA request and assigning it control number DOI-OS-2022-004193. *See* Ex. W.

63. In that response, DOI stated it has categorized AFL as “a representative of the news media” for purposes of fee category. *See id.*

64. On August 2, 2022, AFL sent an e-mail to DOI requesting the status of the request. *See* Ex. X.

65. On August 5, 2022, DOI responded by e-mail, stating that “Currently we are still tracking down which custodian has the record you seek . . . and [we] are hopeful we will have the records in hand soon.” *See id.*

66. As of the date of this Complaint, AFL has received no further response from DOE about this FOIA request.

**DOL Request (2022-F-10154)**

67. AFL submitted a FOIA request to DOL on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. Y.

68. On June 21, 2022, DOL sent an e-mail to AFL acknowledging receipt of the request, assigning it tracking number 2022-F-10154. *See* Ex. Z.

69. In that e-mail, DOL stated that it “expect[s] to complete processing [AFL’s] request on or before 40 days from the date of this acknowledgment.” *See id.*

70. On August 2, 2022, AFL sent DOL an e-mail requesting an update on the status of the request. *See id.*

71. On August 4, 2022, DOL replied to AFL, stating that “We are still conducting our research into your request.” *See id.*

72. As of the date of this Complaint, AFL has received no further response from DOL about this FOIA request.

**SBA Request (SBA-2022-006641)**

73. AFL submitted a FOIA request to SBA on June 10, 2022, requesting “The Agency’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. AA.

74. On June 24, 2022, SBA sent a letter to AFL stating that “SBA has no records responsive to your request.” *See* Ex. AB.

75. On August 31, 2022, AFL sent a letter appealing SBA's response because "SBA has not shown it conducted an adequate search for records." *See Ex. AC.*

76. On September 1, 2022, SBA sent an e-mail to AFL acknowledging receipt of AFL's appeal. *See Ex. AD.*

77. As of the date of this Complaint, AFL has received no further response from SBA about this FOIA request.

#### **DOS Request (F-2022-09259)**

78. AFL submitted a FOIA request to DOS on June 10, 2022, requesting "The Department's 'strategic plan,' that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on 'Promoting Access to Voting,' to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021." *See Ex. AE.*

79. On June 23, 2022, DOS sent an e-mail to AFL acknowledging receipt of the request, assigning it reference number F-2022-09259. *See Ex. AF.*

80. In that response, DOS granted AFL's request for a fee waiver. *See id.*

81. On August 2, 2022, AFL sent DOS an e-mail requesting an update on the status of the request. *See Ex. AG.*

82. On August 4, 2022, DOS replied to AFL, indicating the request is in process, and "You will be notified of the results of the Department's search and review efforts in this case when that information becomes available." *See id.*

83. As of the date of this Complaint, AFL has received no further response from DOS about this FOIA request.

**DOT Request (OST-2022-0389)**

84. AFL submitted a FOIA request to DOT on June 10, 2022, requesting “The Department’s ‘strategic plan,’ that was required by Section 3(b) of Executive Order 14019 (March 7, 2021) on ‘Promoting Access to Voting,’ to be submitted to the Assistant to the President for Domestic Policy by September 23, 2021.” *See* Ex. AH.

85. On June 13, 2022, DOT sent a letter to AFL acknowledging receipt of the request, assigning it File No. OST-2022-0389. *See* Ex. AI.

86. On August 2, 2022, AFL sent DOT an e-mail requesting an update on the status of the request. *See* Ex. AJ.

87. On August 4, 2022, DOT replied to AFL, stating “the records are currently in outside agency review.” *See id.*

88. As of the date of this Complaint, AFL has received no further response from DOT about this FOIA request.

**CLAIMS FOR RELIEF**

**Count One (Violation of FOIA by USDA), 5 U.S.C. § 552**

89. AFL repeats paragraphs 1-88.

90. AFL properly requested records within the possession, custody, and control of Defendant USDA.

91. Defendant USDA has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL’s FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; and (iii) segregate exempt information in otherwise non-exempt responsive records.

**Count Two (Violation of FOIA by ED), 5 U.S.C. § 552**

92. AFL repeats paragraphs 1-91.

93. AFL properly requested records within the possession, custody, and control of ED.

94. ED has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; and (iii) segregate exempt information in otherwise non-exempt responsive records.

**Count Three (Violation of FOIA by DOE), 5 U.S.C. § 552**

95. AFL repeats paragraphs 1-94.

96. AFL properly requested records within the possession, custody, and control of DOE.

97. DOE has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; and (iii) segregate exempt information in otherwise non-exempt responsive records.

**Count Four (Violation of FOIA by EPA), 5 U.S.C. § 552**

98. AFL repeats paragraphs 1-97.

99. AFL properly requested records within the possession, custody, and control of EPA.

100. EPA has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful

reason for the withholding of any responsive records; and (iii) segregate exempt information in otherwise non-exempt responsive records.

**Count Five (Violation of FOIA by HHS), 5 U.S.C. § 552**

101. AFL repeats paragraphs 1-100.

102. AFL properly requested records within the possession, custody, and control of HHS.

103. HHS has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; (iii) grant AFL a fee waiver; and (iv) segregate exempt information in otherwise non-exempt responsive records.

**Count Six (Violation of FOIA by DHS), 5 U.S.C. § 552**

104. AFL repeats paragraphs 1-103.

105. AFL properly requested records within the possession, custody, and control of DHS.

106. DHS has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; (iii) grant AFL a fee waiver; and (iv) segregate exempt information in otherwise non-exempt responsive records.

**Count Seven (Violation of FOIA by DOI), 5 U.S.C. § 552**

107. AFL repeats paragraphs 1-106.

108. AFL properly requested records within the possession, custody, and control of DOI.

109. DOI has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; and (iii) segregate exempt information in otherwise non-exempt responsive records.

**Count Eight (Violation of FOIA by DOL), 5 U.S.C. § 552**

110. AFL repeats paragraphs 1-109.

111. AFL properly requested records within the possession, custody, and control of DOL.

112. DOL has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; (iii) grant AFL a fee waiver; and (iv) segregate exempt information in otherwise non-exempt responsive records.

**Count Nine (Violation of FOIA by SBA), 5 U.S.C. § 552**

113. AFL repeats paragraphs 1-112.

114. AFL properly requested records within the possession, custody, and control of SBA.

115. SBA has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; (iii) grant AFL a fee waiver; and (iv) segregate exempt information in otherwise non-exempt responsive records.

**Count Ten (Violation of FOIA by DOS), 5 U.S.C. § 552**

116. AFL repeats paragraphs 1-115.

117. AFL properly requested records within the possession, custody, and control of DOS.

118. DOS has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; and (iii) segregate exempt information in otherwise non-exempt responsive records.

**Count Eleven (Violation of FOIA by DOT), 5 U.S.C. § 552**

119. AFL repeats paragraphs 1-118.

120. AFL properly requested records within the possession, custody, and control of DOT.

121. DOT has violated FOIA by failing, within the prescribed limit, to (i) reasonably search for records responsive to AFL's FOIA request; (ii) provide a lawful reason for the withholding of any responsive records; (iii) grant AFL a fee waiver; and (iv) segregate exempt information in otherwise non-exempt responsive records.

**REQUEST FOR RELIEF**

WHEREFORE, AFL respectfully requests that this Court:

- i. Declare that the records sought by the requests, as described in the foregoing paragraphs, must be disclosed pursuant to 5 U.S.C. § 552;
- ii. Order Defendants, by a date certain, to conduct a reasonable search for all records responsive to AFL's FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of responsive records;

iii. Order Defendants, by a date certain, to show that it has conducted a reasonable search for records responsive to AFL's FOIA requests;

iv. Order Defendants to produce by a date certain all non-exempt records responsive to AFL's FOIA requests, accompanied by a Vaughn index of any responsive records or portions of responsive records being withheld under claim of exemption;

v. Enjoin Defendants from improperly withholding any non-exempt records responsive to AFL's FOIA requests;

vi. Order Defendants to grant AFL's requests for fee waivers;

vii. Award AFL attorneys' fees and costs incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

viii. Grant AFL such other and further relief as this Court deems proper.

[signature page follows]

Dated: October 6, 2022

Respectfully submitted,

/s/ Michael Ding  
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