

# EXHIBIT C



DEPARTMENT OF HEALTH & HUMAN SERVICES  
Secretary

Office of the

Assistant Secretary for Public Affairs  
Washington, D.C. 20201

Case No. 2020-01689-FOIA-OS

November 19, 2020

*Sent via email:*

Jingnan Huo  
1111 N Capitol St. NE  
Washington, DC 20005  
[jhuo@npr.org](mailto:jhuo@npr.org)

Dear Mr. Huo:

This letter is the final response to your August 18, 2020, Freedom of Information Act (FOIA) request. Specifically, you requested the following records:

“Any White Papers or Full Proposals submitted to HHS under the Broad Agency Announcement (BAA), BAA-19-ASPR NEXT-SOL-75A50119R00044, Area of Interest 4: “Real-Time Healthcare System Capacity Reporting. HHS written evaluation reports created in response to White Papers or Full Proposals under Area of Interest 4 in BAA-19-ASPR NEXT-SOL-75A50119R00044. Any white paper submitted to HHS by TeleTracking to HHS between Aug. 1, 2019 and Aug. 1, 2020. A copy of the Non-Disclosure Agreement signed by TeleTracking relating to BAA-19-ASPR NEXT-SOL-75A50119R00044 A copy of the contract signed by TeleTracking ASPR-BARDA, Contract No. 75A50120C00042.

Emails referring to the term “TeleTracking” from February 1, 2020 to August 18, 2020, to, from, or copying the following HHS or CDC officials:

Bryan Shuy  
Jose Arrieta  
Jim Parker  
Dr. Deborah Birx  
Robert Redfield  
Cameron Hernandez

Emails referring to the term ‘TeleTracking’ from June 1, 2020 to Aug. 18, 2020, to, from, or copying the following HHS officials:

Michael Caputo  
Katherine McKeogh

Date Range for Record Search: From 02/01/2020 To 08/18/2020.”

The Assistant Secretary for Preparedness and Response (ASPR) and the Assistant Secretary for Administration (ASA) conducted a search and located **31 pages** of responsive records. After a careful review of these pages, I have determined to release **24 pages** to you in their entirety, and I am further releasing **7 pages** in part, with portions redacted, pursuant to Exemption (b)(4) and Exemption (b)(6) of the FOIA (5 U.S.C. §552 (b)(4)(b)(6)). I have also determined to withhold **two pages** in their entirety, pursuant to Exemption (b)(4) and Exemption (b)(5) of the FOIA (5 U.S.C. §552 (b)(4)(b)(5)).

FOIA exemption (b)(4) permits the withholding of trade secrets and commercial or financial information that is privileged or confidential.

FOIA exemption (b)(5) protects inter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency. This exemption protects documents that would be covered by any privilege an agency could assert in a civil proceeding. These privileges include, among others, the deliberative process privilege, the attorney-client privilege, and the attorney work-product privilege. In this instance, the deliberative process privilege applies.

FOIA exemption (b)(6) permits a Federal agency to withhold information and records about individuals in “personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” The definition of “similar files” has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term “similar files” to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public’s interest in disclosure.

If you believe the information withheld should not be exempt from disclosure, or this response constitutes an adverse determination, you may appeal. By filing an appeal, you preserve your rights under FOIA and give the agency a chance to review and reconsider your request and the agency’s decision.

Your appeal must be postmarked or electronically transmitted within 90 calendar days of the date of this letter, to

Mr. Mark Weber  
Acting Deputy Agency Chief FOIA Officer  
U.S. Department of Health and Human Services  
Office of the Assistant Secretary for Public Affairs  
Room 729H  
200 Independence Avenue, S.W.  
Washington, DC 20201

Please clearly mark both the envelope and your letter “Freedom of Information Act Appeal.” You may also e-mail your appeal to: [HHS.ACFO@hhs.gov](mailto:HHS.ACFO@hhs.gov).

If you would like to discuss our response before filing an appeal to attempt to resolve your dispute without going through the appeals process, you may contact the HHS FOIA Public Liaison for assistance at:

HHS FOIA/PA Public Liaison  
FOI/Privacy Acts Division  
Assistant Secretary for Public Affairs (ASPA)  
Office of the Secretary (OS)  
U.S. Department of Health and Human Services (HHS)  
200 Independence Avenue, SW, Suite 729H  
Washington, DC 20201

Telephone: (202) 690-7453  
Fax: (202) 690-8320  
E-mail: [HHS\\_FOIA\\_Public\\_Liaison@hhs.gov](mailto:HHS_FOIA_Public_Liaison@hhs.gov)

If you are unable to resolve your FOIA dispute through our FOIA Public Liaison, the Office of Government Information Services (OGIS), the Federal FOIA Ombudsman's office, offers mediation services to help resolve disputes between FOIA requesters and Federal agencies. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, MD 20740-6001

Telephone: 202-741-5770  
Toll-Free: 1-877-684-6448  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Fax: 202-741-5769

There are no charges in this instance because the billable costs are less than our threshold of \$25.

Sincerely yours,

*Wakema Williams for*

Brandon J. Gaylord  
Director  
FOI/Privacy Acts Division

Enclosure(s)