

EXHIBIT 10

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

April 18, 2023

Arianne Perkins
Department of Health and Human Services (HHS)
Office of the Secretary (OS)
Freedom of Information Act Office
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

**RE: STATUS OF REQUEST FOR EXPEDITED PROCESSING AND NARROWING
SCOPE OF REQUEST (FOI/PA Request No. 2023-00558-FOIA-OS)**

Ms. Perkins,

On March 13, 2023, my client, Exela Pharma Sciences, LLC (“Exela”), through its Chief Executive Officer, Phanesh Koneru, and Pharmacist-In-Charge, Bridget Archer, submitted a request for records from HHS under the Freedom of Information Act (“FOIA”). 5 U.S.C. § 552; 45 C.F.R. § 5.21. (Attachment 1). HHS acknowledged that the request was received on March 14, 2023, and that it has been assigned FOI/PA number 2023-00558-FOIA-OS. (Attachment 2). Exela’s request letter includes an application for expedited processing and outlines the reasons that expedited treatment of this request is warranted under 45 C.F.R. § 5.27 and 5 U.S.C. § 552(a)(6)(E).

To date, Exela has not received a determination in response to its request for expedited processing. 45 C.F.R. § 5.27(c) states that HHS will respond to requests for expedited processing “within 10 calendar days of [its] receipt of [the] request to expedite.” *See also* 5 U.S.C. § 552(a)(6)(E)(ii) (“[N]otice of the determination [of whether to provide expedited processing] shall be provided to the person making the request, within 10 days after the date of the request.”). This means that the statutory deadline for a response passed three weeks ago on March 24, 2023. Accordingly, we request that HHS immediately respond with a determination regarding Exela’s request for expedited processing as statutorily required.

Separately, we received a letter from your office dated March 28, 2023 indicating that Exela “may wish to narrow the scope of [its] request to limit the number of potentially responsive records or agree to an alternative time frame for processing, should records be located.” (Attachment 3). Without waiving, tolling, or resetting the FOIA statutory twenty-day (or thirty-day under “unusual circumstances”) requirement for a response under 45 C.F.R. § 5.24 and 5 U.S.C. §§ 552(a)(6)(A) and (a)(6)(B), our client is willing to narrow the scope of the request to ensure HHS makes a determination and produces responsive records within the statutory time frame.

Accordingly, instead of the original date range of January 1, 2021 through the date of production, we propose a narrowed date range of December 1, 2021 through the date of production.

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Please confirm whether this would enable HHS to process Exela's March 14, 2023 FOIA request within the time frame mandated by FOIA. To reiterate, this proposal should not be construed as a request to create a new or separate FOIA request. Please confirm if you are amenable to narrowing the scope in this manner.

I welcome the opportunity to discuss this with you further and can be reached at jtorchinsky@holtzmanvogel.com.

Sincerely,

Jason Torchinsky
Holtzman Vogel Baran Torchinsky & Josefiak PLLC

Attachments