

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

FUNCTIONAL GOVERNMENT INITIATIVE, )  
6218 Georgia Avenue, NW, Ste. 1-1235 )  
Washington, DC 20011-5125, )  
 )  
Plaintiff, )

v. )

Civil Action No. 24-2760

WHITE HOUSE COUNCIL ON )  
ENVIRONMENTAL QUALITY )  
730 Jackson Place, N.W. )  
Washington, DC 20230, )  
 )  
Defendant. )

**COMPLAINT**

Plaintiff Functional Government Initiative (“FGI”) brings this action against Defendant White House Council on Environmental Quality (“CEQ”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges the following:

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PARTIES**

3. Plaintiff FGI is nonprofit corporation, exempt from federal income taxes under section 501(c)(3) of the U.S. Internal Revenue Code. FGI is dedicated to improving the

American public's access to information about the officials, decisions, actions, and priorities of their government.

4. Defendant White House Council on Environmental Quality is an agency of the United States Government within the meaning of 5 U.S.C. § 552(f)(1) and is headquartered at 730 Jackson Place, N.W., Washington, DC 20230. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. FGI routinely submits FOIA requests, and this matter concerns a FOIA request submitted to Defendant on March 8, 2024, to which Defendant has failed to respond. The records sought by these requests seek information about the “America the Beautiful” initiative and the American Conservation and Stewardship Atlas, which could have major impact on land use, domestic energy resources, and other effects.

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant is required to respond to FGI's FOIA requests within 20 working days of each request, but that deadline is extended to no more than 10 working days if there are “unusual circumstances” as defined by 5 U.S.C. § 552(a)(6)(B)(iii).

7. Attorney General Merrick Garland stated that the FOIA is “a vital tool for ensuring transparency, accessibility, and accountability in government,” and that the “‘basic purpose ... is to ensure an informed citizenry,’ which is ‘vital to the functioning of a democratic society [and] needed to check against corruption and to hold the government accountable to the governed.’” Merrick Garland, [Memorandum for Heads of Executive Departments and Agencies: Freedom of Information Act Guidelines](#) at 1 (Mar. 15, 2022).

8. With regards to FGI's FOIA request, the statutory deadline has passed, and Defendant has failed to provide a substantive response to the FOIA request. In fact, as of the date of this Complaint, Defendant has produced no records and has failed to assert any claims that responsive records are exempt from production.

9. Since Defendant has failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A)(i), FGI is deemed to have fully exhausted any and all administrative remedies with respect to its FOIA request. *See* 5 U.S.C. § 552(a)(6)(C).

**FGI'S FOIA REQUEST FOR RECORDS TO THE COUNCIL ON ENVIRONMENTAL QUALITY RELATING TO THE "AMERICA THE BEAUTIFUL" INITIATIVE.**

10. On March 8, 2024, FGI submitted a FOIA request online to Defendant. *See* Exhibit A. The request sought records that include the following terms: "America the Beautiful"; "ATB"; or "Atlas." The request also sought:

records of communications between the custodians and anyone at the Department of Agriculture, Farm Production and Conservation Business Center, Farm Service Agency, Natural Resources Conservation Service, Department of Interior, Bureau of Land Management, US Geological Survey, and the National Oceanic and Atmospheric Administration about the development of the American Conservation and Stewardship Atlas (could be called simply "Atlas").

The custodians identified by the request were: Brenda Mallory, Chair; Matthew Lee-Ashley, Chief of Staff; Sara Gonzalez-Rothi, Senior Director for Water; Stephenne Harding, Senior Director for Land; and Kimberly Tengardjaja, Director for Nature Conservation. The time period covered by the FOIA request was January 20, 2021, until the date the search begins.

11. In an email dated March 11, 2024, Defendant acknowledged receipt of the FOIA request and advised FGI that it had assigned the request tracking number FY2024-146. *See* Exhibit B.

12. As of the date of this Complaint, Defendant has failed to produce any responsive records, nor has it asserted any claims that responsive records are exempt from production.

**CAUSE OF ACTION**  
**(Violation of FOIA, 5 U.S.C. § 552)**

13. Plaintiff realleges paragraphs 1 through 12 as though fully set forth herein.

14. Defendant has failed to make a determination regarding FGI's FOIA request for records within the statutory time limit and is unlawfully withholding records requested by FGI pursuant to 5 U.S.C. § 552.

15. FGI is being irreparably harmed by reason of Defendant's unlawful withholding of requested records, and FGI will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Functional Government Initiative requests that the Court grant all appropriate relief for the violations of FOIA alleged above, including:

- a. An order and judgment requiring the Defendant to conduct a search for any and all records responsive to FGI's FOIA request and to demonstrate that it employed search methods reasonably likely to lead to the discovery of all records responsive to FGI's request;
- b. An order and judgment requiring the Defendant to produce, by a date certain, any and all non-exempt records responsive to FGI's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;
- c. An order and judgment permanently enjoining Defendant from continuing to withhold any and all non-exempt records in this case that are responsive to FGI's FOIA request;

- d. Attorneys' fees and costs to Plaintiff pursuant to any applicable statute or authority, including 5 U.S.C. § 552(a)(4)(E); and
- e. Any other relief that this Court in its discretion deems just and proper.

/s/ Jeremiah L. Morgan

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Dated: September 27, 2024

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FUNCTIONAL GOVERNMENT  
INITIATIVE