

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

DEMOCRACY FORWARD FOUNDATION,  
1333 H Street NW, 11<sup>th</sup> Floor  
Washington, DC 20005,

*Plaintiff,*

v.

UNITED STATES DEPARTMENT OF THE  
INTERIOR,  
1849 C Street NW  
Washington, DC 20240,

*Defendant.*

Case No. \_\_\_\_\_

**COMPLAINT**

1. Plaintiff Democracy Forward Foundation (“Democracy Forward”) brings this action against Defendant United States Department of the Interior (“DOI”) to compel compliance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

3. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1).

**PARTIES**

4. Plaintiff Democracy Forward is a not-for-profit organization incorporated under the laws of the District of Columbia, and based in Washington, D.C. Democracy Forward works

to promote transparency and accountability in government, in part by educating the public on government actions and policies.

5. Defendant DOI is a federal agency within the meaning of FOIA, *see* 5 U.S.C. § 552(f)(1), and is headquartered in Washington, D.C. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

### **FACTUAL ALLEGATIONS**

6. On November 4, 2019, Plaintiff sent a FOIA request to DOI concerning the communications of certain government employees. *See* Ex. A at 3-4.

7. Democracy Forward requested that DOI search for responsive records created between January 20, 2017 and the date on which the search for responsive records is completed. Ex. A at 4.

8. Democracy Forward sought a waiver of search and duplicating fees under 5 U.S.C. § 552(a)(4)(A)(iii), which requires waiver of fees if the disclosure is “in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” *See* Ex. A at 5-6.

9. By letter dated November 18, 2019, DOI acknowledged receiving Democracy Forward’s FOIA request on November 4, 2019 and assigning it request number OS-2020-00106. *See* Ex. B.

10. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), DOI was required to determine whether to comply with the FOIA request within twenty business days of receipt of the request and to notify Democracy Forward immediately of their determination, the reasons therefor, and the right to

appeal any adverse determination. When there are “unusual circumstances,” Defendant may extend this deadline by ten working days, as provided in subsection 552(a)(6)(B)(iii).

11. As of the date of this Complaint, DOI has failed to produce any requested records or to demonstrate that such records are lawfully exempt from production. *See* 5 U.S.C. § 552(a)(6)(C). Nor has DOI notified Democracy Forward of the scope of any responsive records it intends to produce or withhold, the reasons for any withholdings, or the expected time frame for such determination.

### **CLAIM FOR RELIEF**

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

20. Democracy Forward repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

21. By failing to respond to Democracy Forward’s request within the statutorily prescribed time limit, DOI has violated its duties under FOIA, including but not limited to its duty to conduct a reasonable search for responsive records, and to produce all responsive, reasonably segregable, non-exempt information.

22. Plaintiff is being irreparably harmed by DOI’s violation of FOIA and will continue to be irreparably harmed until DOI is compelled to comply with FOIA.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Democracy Forward respectfully requests that the Court:

1. Order Defendant to conduct searches for any and all records responsive to Democracy Forward’s FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the FOIA request;

2. order Defendant to produce, by a date certain, any and all nonexempt records responsive to Democracy Forward's FOIA request and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. enjoin Defendant from continuing to withhold any and all nonexempt records responsive to Democracy Forward's FOIA request;
4. order Defendant to grant Democracy Forward's request for a fee waiver;
5. grant Democracy Forward an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
6. grant any other relief this Court deems appropriate.

Dated: December 23, 2019

Respectfully submitted,

/s/ Travis Annatoyn  
Travis Annatoyn (D.C. Bar No. 1616605)  
Democracy Forward Foundation  
1333 H Street NW, 11<sup>th</sup> Floor  
Washington, DC 20005  
(202) 448-9090  
tannatoyn@democracyforward.org

*Counsel for Plaintiff*