

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

US RIGHT TO KNOW
4096 Piedmont Avenue, # 963
Oakland, CA 94611-5221

Plaintiff,

v.

U.S. DEPARTMENT OF STATE
2201 C Street, NW
Washington, DC 20451

Defendant.

Case No.

COMPLAINT UNDER THE FREEDOM OF INFORMATION ACT

Plaintiff US RIGHT TO KNOW (“USRTK”) for its complaint against Defendant U.S. Department of State (“State”) alleges as follows:

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.* for declaratory and injunctive relief, seeking immediate processing and release of agency records responsive to Plaintiff’s requests following the State’s failure to comply with the express terms of FOIA; State’s failure to make “determination[s]” as defined in *Citizens for Responsible Ethics in Washington v. Federal Election Commission (CREW)*, 711 F.3d 180, 816 (D.C. Cir. 2013); and State’s untimely and unlawful denial of Plaintiff’s requests for expedited processing and fee waivers.

PARTIES

2. Plaintiff USRTK is a nonprofit newsroom and public health research group. It works globally to expose corporate wrongdoing and government failures and/or malfeasance that threaten public health, the environment or the food system. Since 2015, it has obtained, posted online, and shared with the media thousands of industry and government documents, including many obtained through judicial enforcement of open records laws. Tens of thousands of pages of

documents obtained by USRTK are now available for free public access. It is a member of the Institute for Nonprofit News¹ and has received the 2025 James Madison Freedom of Information Award from the Society of Professional Journalists, Northern California chapter, for its work investigating and reporting on the origins of COVID-19.²

3. Defendant State is a federal “agency” within the meaning of the Freedom of Information Act. State’s headquarters is located in Washington, DC. Defendant has custody and control over the records Plaintiff seeks.

JURISDICTION AND VENUE

4. This Court has jurisdiction pursuant to and 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B) to review the State’s failure to comply with the statutory deadlines for making determinations in response to Plaintiff’s FOIA Requests.
5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(6)(E)(iii) to review an agency’s denial of requests for expedited processing.
6. Venue is proper in this Court under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).
7. Plaintiff is not required to further exhaust administrative remedies before seeking relief in this Court because the Defendant has neither produced records nor made timely “determination[s]” as that term is defined in *CREW*, 711 F.3d 180 at 188.
8. Plaintiff has no obligation to further exhaust administrative remedies with respect to their requests for “expedited processing” of their FOIA requests. *See* 5 U.S.C. § 552(a)(6)(E)(iii) (“[a]gency action to deny or affirm a denial of a request for expedited processing ...shall be [immediately] subject to judicial review[.]” *See also* *ACLU v. U.S. Dep’t of Justice*, 321 F. Supp. 2d 24, 28 (D.D.C. 2004).

¹ *See* <https://usrtk.org/about-u-s-right-to-know/>. (Last electronically accessed on Sept. 28, 2025).

² *See* <https://spjnorcal.org/2025/02/12/spj-norcal-honors-transparency-champions-in-james-madison-freedom-of-information-awards-3/>. (Last electronically accessed on Sept. 28, 2025).

PLAINTIFF’S JULY 31, 2025, AND AUGUST 4, 2025, FOIA REQUESTS

9. On July 31, 2025, Plaintiff submitted by way of email a two-part FOIA request to Defendant seeking the records described. Specifically, Plaintiff sought records containing certain keyword combinations or names and made over a four-month period between State’s Bureau of Intelligence and Research (“INR”) on one hand and several U.S. consulates in China and the U.S. Embassy in Beijing, China on the other. Plaintiff’s July 31, 2025, FOIA request at issue in this suit is attached hereto and incorporated by reference herein as **Exhibit A**.
10. Plaintiff’s July 31, 2025, FOIA request sought a fee waiver on the multiple bases including its status as a member of the news media and extensively explained how it met the standard for a fee waiver under both FOIA and State’s own regulation codified at 22 CFR § 171.16.
11. Plaintiff’s FOIA request sought expedited processing of its request and extensively described its basis for same including, *inter alia*, the fact that Plaintiff is, as an award-winning member of the news media and thus primarily engaged in disseminating information and that the records sought pertain definitively to State’s official government activities.
12. Plaintiff’s request for expedited processing of its July 31, 2025 request further explained that it had a demonstrable, compelling and urgent need for expedited processing because the records sought go to the still remarkably unanswered questions surrounding State’s knowledge of the origins of COVID-19; because there was demonstrable and great public interest in the records sought; because this great public interest has been underscored by relentless, recent and ongoing media interest in the records sought. Plaintiff extensively documented this media interest in their FOIA request by, *inter alia*, citing over fifty articles from major news outlets over the preceding three months that relate to the unanswered questions which it seeks to address through its FOIA request. State’s own expedited processing regulation codified at 22 C.F.R 171.12(d)(3), states that “[t]he existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be

an ‘urgency to inform’ the public on the topic.”); *see also Oversight v. U.S. Dep’t of Just.*, 292 F. Supp. 3d 501, 508 (D.D.C. 2018) (start and end with media interest). *See also Brennan Ctr. for Just. at NYU Sch. of L. v. Dep’t of Com.*, 498 F. Supp. 3d 87, 97 (D.D.C. 2020) (fifty articles more than sufficient to show exceptional media interest).³

13. On September 17, 2025, Defendant finally and belatedly acknowledged Plaintiff’s request over six weeks after it was made and assigned the request the identification number F-2025-28502. Defendant’s acknowledgement letter is attached hereto and incorporated by reference herein as **Exhibit B**.
14. Defendant acknowledgement letter asserted that “unusual circumstances” prevented it from responding within the otherwise mandatory twenty business days.
15. Defendant’s letter acknowledging receipt of Plaintiff’s July 31, 2025, request also denied Plaintiff’s request for expedited processing by parroting its regulation and then adding without more that “[y]our request does not demonstrate a ‘compelling need’ for the requested information.” It addressed none of Plaintiff’s bases supporting its request for expedited processing.
16. Defendant’s letter, while acknowledging that Plaintiff was a member of the “news media” also denied Plaintiff’s request for a fee waiver by again parroting the language of its regulation and then stating without more that “your request does not meet the public interest standard set forth in 22 CFR 171.16(j)(2)(ii)”. State again addressed none of Plaintiff’s bases for its request for a fee waiver.
17. On August 4, 2025, Plaintiff submitted by way of email a second FOIA request to Defendant seeking the records described. Specifically, Plaintiff sought records between State’s Bureau

³ *See also USRTK v Central Intelligence Agency*, Civ.A. No. 25-2307 (CKK), ECF at No. 6 at ¶3 acknowledging fact that the Central Intelligence Agency granted Plaintiff’s right to expedited processing in response to another June 9, 2025, FOIA request that also sought records related to the government’s knowledge of the origins of COVID-19.

of Intelligence and Research (“INR”) on one hand and U.S. consulates and the U.S. Embassy in Beijing, over an approximately four-month window. More specifically records containing the names of several specifically identified individuals. Plaintiff’s August 4, 2025, FOIA request at issue in this suit is attached hereto and incorporated by reference herein as **Exhibit C**.

18. Plaintiff’s August 4, 2025, FOIA request sought a fee waiver on the multiple bases including its status as a member of the news media and extensively explained how it met the standard for a fee waiver under both FOIA and State’s own regulation codified at 22 CFR § 171.16.
19. Plaintiff’s August 4, 2025, FOIA request sought expedited processing of its request and extensively described its basis for same including, *inter alia*, the fact that Plaintiff is, as an award-winning member of the news media and thus primarily engaged in disseminating information and that the records sought pertain definitively to State’s official government activities.
20. Plaintiff’s requests for expedited processing further explained that it had a demonstrable, compelling and urgent need for expedited processing because the records sought go to the still unanswered questions surrounding State’s knowledge of the origins of COVID-19; because there was demonstrable and great public interest in the records sought; because this great public interest has been underscored by relentless, recent and ongoing media interest in the records sought. Plaintiff extensively documented this media interest in their FOIA request by, *inter alia*, citing over fifty articles from major news outlets over the preceding three months that relate to the unanswered questions which it seeks to address through its FOIA request. State’s own expedited processing regulation codified at 22 C.F.R 171.12(d)(3), states that “[t]he existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an ‘urgency to inform’ the public on the topic.”); *see also Oversight v. U.S. Dep’t of Just.*, 292 F. Supp. 3d 501, 508 (D.D.C. 2018) (start and end

with media interest). *See also Brennan Ctr. for Just. at NYU Sch. of L. v. Dep't of Com.*, 498 F. Supp. 3d 87, 97 (D.D.C. 2020) (fifty articles more than sufficient to show exceptional media interest).⁴

21. On September 17, 2025, Defendant finally and belatedly appears⁵ to have acknowledged Plaintiff's August 4, 2025, request nearly six weeks after it was made and assigned the request the identification number F-2025-27137. Defendant's acknowledgement letter is attached hereto and incorporated by reference herein as **Exhibit D**.
22. Defendant acknowledgement letter again asserted that "unusual circumstances" prevented it from responding within the otherwise mandatory twenty business days.
23. Defendant's acknowledgement letter again denied Plaintiff's request for expedited processing by merely parroting its regulation and then adding without more that "[y]our request does not demonstrate a 'compelling need' for the requested information. It addressed none of Plaintiff's bases for its request for expedited processing.
24. Defendant's letter, while acknowledging that Plaintiff was a member of the "news media" again denied Plaintiff's request for a fee waiver by again parroting the language of its regulation and then stating without more that "your request does not meet the public interest standard set forth in 22 CFR 171.16(j)(2)(ii)". State again addressed none of Plaintiff's bases for its request for a fee waiver.

Defendant's Failure to Issue Determinations

25. FOIA provides that a requesting party is entitled to a substantive agency response within twenty working days, including a determination of whether the agency intends to comply with

⁴See also *USRTK v Central Intelligence Agency*, Civ.A. No. 25-2307 (CKK), ECF at No. 6 at ¶3 acknowledging fact that the Central Intelligence Agency granted Plaintiff's right to expedited processing in response to another June 9, 2025, FOIA request that also sought records related to the government's knowledge of the origins of COVID-19.

⁵ Plaintiff prefaces this statement with "appears" because State's letter states that it was responsive to a June 30, 2025, request whereas the request at issue was dated August 4, 2025.

the request. 5 U.S.C. § 552(a)(6)(A)(i). Within that deadline, the agency must also “determine and communicate the scope of the documents it intends to produce and withhold, and the reasons for withholding any documents,” and “inform the requester that it can appeal whatever portion of the agency’s “determination” is adverse to the requestor. *CREW*, 711 F.3d 180 at 188.

26. 5 U.S.C. § 552(a)(6)(A) prescribes that the 20-day time limit shall not be tolled by the agency except in two narrow scenarios: The agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester, 5 U.S.C. § 552(a)(6)(A)(ii)(I), and agencies may also toll the statutory time limit if necessary to clarify with the requester issues regarding fee assessment. 5 U.S.C. § 552(a)(6)(A)(ii)(II). In either case, the agency’s receipt of the requester’s response to the agency’s request for information or clarification ends the tolling period. Neither apply to Plaintiff’s July 31, 2025, or August 4, 2025, FOIA requests because the State has not sought additional information from Plaintiff regarding either request at issue in this suit.
27. Defendant received USRTK’s requests for expedited processing on its first request on July 31, 2025, and thus owed USRTK a “determination” with respect to same by August 15, 2025. *See* 22 C.F.R 171.12(d)(4) (“notice of the determination whether to grant expedited processing must be provided to the requester within 10 calendar days of the date of the receipt of the request for expedited processing”). Plaintiff did not receive any such determination by or before August 15, 2025.
28. Defendant received USRTK’s request for expedited processing on its second request on August 4, 2025, and thus owed USRTK a “determination” with respect to same by August 19, 2025. *See* 22 C.F.R 171.12(d)(4) (“notice of the determination whether to grant expedited processing must be provided to the requester within 10 calendar days of the date of the receipt

of the request for expedited processing”). Plaintiff did not receive any such determination by or before August 19, 2025.

29. Defendant received USRTK’s first FOIA request on July 31, 2025, and thus owed USRTK a “determination,” regarding that request, as that term is defined in *CREW*, 711 F.3d 180 at 188, by August 29, 2025. Plaintiff has still not received any such determination.
30. Defendant received USRTK’s second FOIA request on August 4, 2025, and thus owed USRTK a “determination,” regarding that request, as that term is defined in *CREW*, 711 F.3d 180 at 188, by September 3, 2025. Plaintiff has still not received any such determination.
31. In *Bensman v. National Park Service*, 806 F. Supp. 2d 31 (D.D.C. 2011), this Court noted: “[a]n additional effect of the 2007 Amendments was to impose consequences on agencies that do not act in good faith or otherwise fail to comport with FOIA's requirements. *See* S.Rep. No. 110–59. To underscore Congress's belief in the importance of the statutory time limit, the 2007 Amendments declare that ‘[a]n agency shall not assess search fees ... if the agency fails to comply with *any time limit*’ of FOIA.” (cleaned up).
32. Defendant is now past its statutory period for issuing lawful determinations with respect to the above-described requests. Further, that time has elapsed without the Defendant having provided any substantive response to Plaintiff’s requests. Among the consequences of Defendant’s violation(s) of the statutory time limits of FOIA is that Defendant cannot now seek fees.
33. In sum, Defendant is improperly: failing to search for records, failing to produce records, failing to issue determinations, failing to grant a fee waivers, and failing to grant expedited processing to the Plaintiff.

FIRST CLAIM FOR RELIEF
Duty to Produce Records – Declaratory Judgment

34. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.

35. Plaintiff has sought and been wrongfully denied production of records responsive to two FOIA requests that reflect the conduct of official government business.
36. Plaintiff has a statutory right to the information it seeks and that Defendant has unlawfully withheld the information.
37. Plaintiff is not required to further pursue administrative remedies or alternatively has exhausted such remedies.
38. Plaintiff asks this Court to enter a judgment declaring that:
- a. Plaintiff is entitled to records responsive to the two FOIA request described above, and any attachments thereto, but State failed to provide these records;
 - b. State's processing of Plaintiff's two FOIA requests described above is not in accordance with the law, and does not satisfy State's obligations under FOIA;
 - c. State must now produce records responsive to Plaintiff's two requests and must do so at no cost to Plaintiff.

SECOND CLAIM FOR RELIEF
Duty to Produce Records – Injunctive Relief

39. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
40. Plaintiff is entitled to injunctive relief compelling Defendant to search for and produce the records responsive to the FOIA request described in this pleading.
41. Plaintiff asks the Court to enter an injunction ordering Defendant to search for and produce to Plaintiff, within 10 business days of the date of the order, the requested records sought in Plaintiff's FOIA request described above, and any attachments thereto and do so at no cost to Plaintiff.
42. Plaintiff asks the Court to order parties to consult regarding withheld documents and to file a status report to the Court within 30 days after Plaintiff receives the last of the produced

documents, addressing Defendant's preparation of a *Vaughn* log and a briefing schedule for resolution of remaining issues associated with Plaintiff's challenges to Defendant's withholdings, if any, and any other remaining issues.

THIRD CLAIM FOR RELIEF
Duty to Provide Expedited Processing

43. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
44. Plaintiff sought expedited processing of its request pursuant to Defendant's expedited processing regulations and were wrongfully denied it.
45. Plaintiff has established that it is a news media outlet for FOIA purposes and that it is primarily engaged in the dissemination of information.
46. The information requested has more value at the present moment than it will in the future for many reasons including: because media attention in the origins of COVID-19 is extremely high and because the origins of COVID-19 are also part of an ongoing political and public debate over both the origins of COVID-19 and the degree of the government's knowledge of same and response to it.
47. Plaintiff has established that their request pertains to Government activity.
48. Plaintiff has established that there is an urgency to inform the public about this Government activity and that Plaintiff, as a news media outlet, is in a position to do so.
49. Plaintiff has already provided the State with the requisite specificity regarding their ability to inform the public and need not do more.⁶
50. Defendant's denial of Plaintiff's request for expedited processing was not in accordance with the law and does not satisfy State's obligations under FOIA.

⁶ See e.g., *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003) ("the government points to nothing in FOIA, the IRS regulation, or our case law requiring such pointless specificity")

51. Plaintiff is not required to pursue administrative remedies as pertains to its request for expedited processing.
52. Plaintiff therefore asks this court to enter a mandatory injunction ordering that the Defendant process the two requests at issue herein on an expedited basis.
53. Plaintiff asks this Court to enter a judgment declaring that:
 - a. Plaintiff are entitled to have their two FOIA requests, as described above, processed under State's expedited track;
 - b. State's denial of Plaintiff's requests for expedited processing of its two requests was not in accordance with the law and does not satisfy State's obligation under FOIA;
 - c. State must now place Plaintiff's two requests, as described above, in their expedited processing track.

FOURTH CLAIM FOR RELIEF
Costs And Fees – Injunctive Relief

54. Plaintiff restates and incorporates by reference each of the foregoing paragraphs as if fully set forth herein.
55. Pursuant to 5 U.S.C. § 552(a)(4)(E), the Court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.
56. This Court should enter an injunction or other appropriate judgment or order requiring the Defendant to pay reasonable attorney fees and other litigation costs reasonably incurred in this case.

PRAYER FOR RELIEF

Plaintiff respectfully requests this Court:

1. Assume jurisdiction in this matter, and maintain jurisdiction until the Defendant

complies with FOIA and every order of this Court;

2. Declare Defendant has violated FOIA by failing to provide Plaintiff with the requested records on an expedited basis and by failing to notify Plaintiff of final determinations within the statutory time limits;
3. Declare that Defendant has violated FOIA by failing to grant Plaintiff fee waivers.
4. Declare that the documents sought by the requests, as described in the foregoing paragraphs, are public records under 5 U.S.C. § 552 *et seq.* and must be disclosed;
5. Order Defendant to expeditiously provide the requested records to Plaintiff within 20 business days of the Court's order and without cost to the Plaintiff;
6. Award Plaintiff's attorneys their fees and other litigation costs reasonably incurred pursuant to 5 U.S.C. § 552(a)(4)(E); and
7. Grant such other relief as this Court deems just and proper.

Respectfully submitted this 29th day of September 2025,

US RIGHT TO KNOW

By Counsel:

/s/ Nathaniel M. Lindzen

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