

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WHITE COAT WASTE PROJECT
7288 Hanover Green Dr.
Mechanicsville, VA 23111

Plaintiff,

v.

THE UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
200 Independence Way, S.W.
Washington DC 20201,

Defendant.

Civ. No.

**Complaint for Declaratory and
Injunctive Relief**

1. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, seeking the release of records related to the National Institute of Health's (NIH) procurement of dogs to be used in experiments.

Jurisdiction and Venue

2. This Court has jurisdiction over the parties and subject matter pursuant to 5 U.S.C. § 552(a)(4)(B).

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

Parties

4. Plaintiff White Coat Waste Project, Inc. (WCW) is a bipartisan taxpayer watchdog organization pursuant to Section 501(c)(3) of the Internal Revenue Code, with its headquarters located at 7288 Hanover Green Drive, Mechanicsville, VA, 23111. WCW's mission is to unite animal-lovers and liberty-lovers to find, expose and

defund wasteful taxpayer-funded animal experiments. WCW is the requester of the information at issue in this case.

5. Defendant Department of Health and Human Services (DHHS) is an agency of the United States.

6. The National Institute of Health (NIH) is a component of DHHS.

7. The Office of Research Services, Research Facilities (ORS-ORF) is a component of NIH.

8. DHHS, NIH, and ORS-ORF have possession, custody, and control of the records WCW seeks.

Statement of Facts

WCW's FOIA Case No. 57941

9. On February 24, 2022, WCW submitted a FOIA request to ORS-ORF seeking “copies of the following documents related to NIH’s federal contract 75N98020D00014:

- Procurement and shipping records for all dogs obtained under the contract (including, but not limited to invoices, certificates of veterinary inspection, other health certificates, shipping manifests, routing and contact sheets, and CDC notifications);
- Acquisition and disposition records for the dogs obtained under the contract;
- Photos and videos of the shipments and/or dogs received; and
- IACUC-approved protocols assigned to the dogs.

10. The online portal assigned WCW request case number 57941.

11. On February 28, 2022, the agency acknowledged receipt of the request.

12. On February 28, 2022, a Government Information Specialist emailed WCW requesting a date range and asking if WCW would agree to redaction of “names of NIH employees, contractors as well as the building and room numbers.”

13. WCW provided a date range and agreed to the redactions on the same day.

14. On March 31, 2022, the same Government Information Specialist emailed WCW asking if WCW would agree to redaction of “the names and addresses of the companies that suppl[y] the animals.”

15. WCW agree to those redactions on the same day.

16. To date, WCW has not received any further response or production, or any denial letter, related to this request.

17. As of the filing of this Complaint, WCW has not received a final determination and response regarding NIH FOIA Case No. 57941.

18. Pursuant to 5 U.S.C. § 552(a)(6)(C)(i), WCW is deemed to have exhausted its administrative remedies with regard NIH FOIA Case No. 58229 because the agency has failed to comply with the statutory time limit.

19. ORS-ORF (through the NIH and DHHS) continues to wrongfully withhold the requested records from WCW.

Count I: Violation of FOIA

20. Plaintiff realleges and incorporates by reference the allegations in each of the preceding paragraphs of this Complaint.

21. DHHS has wrongfully withheld agency records requested by WCW.

22. WCW has exhausted applicable administrative remedies with respect to DHHS's wrongful withholding of the requested records.

23. WCW and the public have been and will continue to be irreparably harmed until DHHS is ordered to comply with WCW's FOIA requests.

24. WCW is entitled to injunctive relief with respect to the release and disclosure of the requested documents.

Request for Relief

WHEREFORE, WCW respectfully requests that this Court:

- (1) Declare DHHS's failure to comply with FOIA to be unlawful;
- (2) Enjoin DHHS from continuing to withhold the public records responsive to WCW's FOIA request and otherwise order DHHS to produce the requested public records without further delay;
- (3) Grant WCW an award of attorney fees and other litigation costs reasonably incurred in this action, to the extent permitted by law; and
- (4) Grant WCW such other and further relief which the Court deems proper.

Date: July 14, 2022

Respectfully submitted,

/s/ Matthew Strugar
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