



DISTRICT OF COLUMBIA



TENNESSEE



VIRGINIA



November 25, 2024

FEMA FOIA Officer
Disclosure Branch
500 C Street, S.W.
Mail Stop 3172
Washington, D.C. 20472-3172

Mason Clutter
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
STOP-0655
U.S. Department of Homeland Security (DHS)
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-065

RE: FOIA Request to the U.S. Department of Homeland Security (DHS) and U.S. Federal Emergency Management Agency (FEMA) for Records Regarding Discrimination in Providing Government Aid in an Emergency

Dear FOIA Officer,

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.*, and corresponding department/agency implementing regulations. The Request is made by the American Center for Law and Justice (“ACLJ”).¹

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

Background

Pursuant to Department of Homeland Security (“DHS”) regulation 6 C.F.R. § 5.3(b), this Background addresses “the date, title or name, author, recipient, and subject matter of the record[s]” requested, to the extent known.

According to whistleblower information that was revealed on November 8, 2024:

A federal disaster relief official ordered workers to bypass the homes of Donald Trump’s supporters as they surveyed damage caused by Hurricane Milton in Florida, according to internal correspondence obtained by The Daily Wire and confirmed by multiple federal employees.

A FEMA supervisor told workers in a message to “avoid homes advertising Trump” as they canvassed Lake Placid, Florida to identify residents who could qualify for federal aid, internal messages viewed by The Daily Wire reveal. The supervisor, Marn’i Washington, relayed this message both verbally and in a group chat used by the relief team, multiple government employees told The Daily Wire.²

According to these whistleblowers, many homes, at least 20, were skipped for FEMA assistance because they displayed support for President Trump.³ A FEMA supervisor messaged her team instructing about “best practices” when visiting homes to sign people up for government aid. Accompanying tips like “avoid high salt diets” and “communicate and follow the rules” was an instruction to “avoid homes advertising Trump.”⁴ Because of this directive, homes with “Trump” signs were not given the opportunity to qualify for FEMA assistance as workers ignored them.⁵ Photos from the system used by FEMA workers to track what homes they visit showed that they followed Washington’s guidance. Several addresses were marked “not able to access property” with listed explanations such as: “Trump sign no entry per leadership,” “Per leadership no stop Trump flag,” “Trump sign,” and “Trump sign, no contact per leadership.”⁶

In response, your agency has publicly acknowledged that this occurred and stated, “While we believe this is an isolated incident, we have taken measures to remove the employee from their role and are investigating the matter to prevent this from happening ever again[.]”⁷ On November 9, 2024, you announced that the supervisor responsible was terminated as her conduct was “reprehensible.”⁸

² Leif Le Mahieu, *EXCLUSIVE: FEMA Official Ordered Relief Workers to Skip Houses with Trump Signs*, DAILY WIRE (Nov. 8, 2024), <https://www.dailywire.com/news/exclusive-fema-official-ordered-relief-workers-to-skip-houses-with-trump-signs>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Statement from FEMA Administrator Deanne Criswell on Employee Misconduct*, FEMA, <https://www.fema.gov/press-release/20241109/statement-fema-administrator-deanne-criswell-employee-misconduct> (Nov. 12, 2024).

But your former supervisor has claimed in interviews that her conduct was not isolated, and that she was following FEMA protocol by engaging in discrimination.⁹ “What I’d like for the American people to know is before I even deployed to Florida, that this was the work culture there,” Marn’i Washington told CNN’s Laura Coates. “I was on two teams in Florida and the first team, when I arrived, they were implementing avoidance and de-escalation and unfortunately that trend ran with those Trump signs.”¹⁰ She also said in interviews, “I don’t create policy. FEMA does. I just implement it in the field.”¹¹ In response to your statement that her conduct was unacceptable, she again said that the policy in question did not originate with her and said, “I don’t understand why we’re hiding that from the American people.”¹² In another interview, Washington also claimed “internal FEMA reports would show her decision to skip homes with political signs was part of a broader trend within FEMA to avoid potential danger to her and her colleagues.”¹³

On November 19, 2024, FEMA Director Deanne Criswell gave testimony to Congress in a hearing about FEMA’s disaster response where these matters were addressed.¹⁴ At the hearing, “House Oversight Committee Chairman James Comer revealed Tuesday that a whistleblower claimed a FEMA supervisor in Georgia directed a family to remove Trump campaign signage from their home, saying it was not “looked kindly” on by the agency.”¹⁵ According to Chairman Comer:

“My staff made contact with a new whistleblower who provided a credible account that a FEMA contractor visited the home of an elderly disabled veteran’s family around October 10 following Hurricane Helene,” Comer said after the committee came back from recess. “While there he recommended that they remove Trump campaign materials and signs from both their house and yard. He warned the family that his FEMA supervisor does not take kindly to Trump supporters and that they are seen as domestic terrorists.”¹⁶

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f). The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with

⁹ Mary Kay Mallonee, *Ahead of FEMA Chief’s Testimony to Congress, Fired Worker Tells CNN She Was Following Protocol When Skipping Trump Homes*, CNN (Nov. 14, 2024, 6:14 AM) <https://www.cnn.com/2024/11/19/politics/fema-hearing-intv-marni-washington-deanne-criswell/index.html>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Michael Wilner & Ana Ceballos, *Fired FEMA Worker Says Florida Homes with Trump Signs Were Skipped Due to Hostility*, MIAMI HERALD, <https://www.miamiherald.com/news/politics-government/article295488794.html#storylink=cpy> <https://www.miamiherald.com/news/politics-government/article295488794.html> (Nov. 14, 2024, 10:11 AM).

¹⁴ *Watch Live: House Oversight Committee Looks into FEMA Disaster Response*, THE HILL (Nov. 19, 2024, 1:13 PM), <https://thehill.com/video-clips/4997684-watch-live-house-oversight-committee-fema-hearing/>.

¹⁵ Leif Le Mahieu, *Whistleblower Alleges FEMA Advised Georgia Hurricane Victims to Remove Trump Signs, Comer Says*, DAILY WIRE (Nov. 19, 2024), <https://www.dailywire.com/news/whistleblower-alleges-fema-advised-georgia-hurricane-victims-to-remove-trump-signs-comer-says>.

¹⁶ *Id.*

the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

When this Request names a person or an office, it includes any alias or pseudonym name and any electronic communication account any such official might use.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is July 1, 2024, to the date this Request is processed.

Pursuant to the FOIA, 5 U.S.C. § 552 *et seq.*, the ACLJ hereby requests that the U.S. Department of Homeland Security (DHS) and its component FEMA produce the following:

1. Records within the custody of any DHS or FEMA official – of an appointee or GS-12 level or higher, or a personal staff or assistant of any such official, that contain the words “Trump,” “Trump supporter,” “Republican,” “conservative,” “politics,” “MAGA,” or “domestic terrorist,” and germane variations thereof, and within the context of distribution of aid.
 - a. This request includes but is NOT limited to records of any person in Marn’i Washington’s chain of command or who would otherwise have given any instruction, guidance, directive, or the like, to Marn’i Washington.
 - b. This request includes but is NOT limited to records of any person in the chain of command of any other employee with similar responsibilities as Marn’i Washington, or who would otherwise have given any instruction, guidance, directive, similar to that described by Marn’i Washington, but in any Georgia, Florida, Alabama, South Carolina or North Carolina.
2. Records of all policies, guidance, and any similar records of FEMA’s decision-making process in choosing homes and properties to avoid, specifically regarding whether homes should be denied or avoided for political reasons.
3. Records listing or identifying locations [**with actual street addresses redacted**] which FEMA did not visit to offer aid because FEMA operatives observed visible Trump support.
4. Records of communications between Washington, her team, and her supervisors referencing “Trump,” “Republican,” “conservative,” “politics,” “MAGA,” and germane variations thereof.
5. Records of every FEMA supervisor who gave, approved, or in any way was aware of directives to avoid homes with “Trump” signs or homes otherwise identified as Republican or conservative.
6. Records of whether FEMA has any policy, procedure, or guidance in place to avoid contacting the homes of “Trump” supporters or of Republicans/conservatives.
7. Records of whether FEMA has any general policy of avoiding aid based on political affiliation.

8. All records of talking points, briefers, memoranda, or any other preparation material generated for or in connection with FEMA Director Deanne Criswell's November 19, 2024, congressional testimony.

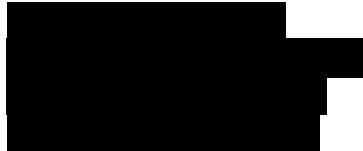
Each request seeks records which include, but are not limited to, any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS/FEMA electronic mail or message accounts, non-DHS/FEMA electronic mail or message accounts, personal electronic mail or message accounts, DHS/FEMA servers, non-DHS/FEMA servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request and attached documentation are true and correct to the best of my knowledge and belief.

Respectfully submitted,

Handwritten signature of Jordan Sekulow in black ink.

Jordan Sekulow
Executive Director

Handwritten signature of Benjamin P. Sisney in black ink.

Benjamin P. Sisney
Senior Litigation Counsel

Handwritten signature of John A. Monaghan in blue ink.

John A. Monaghan
Senior Litigation Counsel