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DISTRICT OF COLUMBIA



TENNESSEE



VIRGINIA



January 29, 2025

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. Federal Emergency Management Agency (FEMA) and U.S. Department of Homeland Security (DHS) for Records Regarding Discrimination in Providing Government Aid in an Emergency**

Dear FOIA Officer and Mr. Clutter:

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 American Center for Law and Justice (“ACLJ”)<sup>1</sup> represents Hon. Jon Echols, former Majority Leader of the Oklahoma State House of Representatives, and Rachel Magee, a resident of Love County, Oklahoma.

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<sup>1</sup>The 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.

As reported by FoxWeather.com:

At least four people were killed, and several others were injured Saturday [April 27, 2024] when devastating tornadoes tore through several Oklahoma cities during a severe weather outbreak that caused catastrophic damage to numerous homes and buildings and knocked out power to tens of thousands of utility customers.<sup>2</sup>

The storm system resulted in at least 4 deaths.<sup>3</sup>

Significant damage was reported across the region, including in Marietta, where damage was reported to Marietta Hospital. The OEM said hospital patients took shelter during the extreme weather, and no injuries had been reported there. The storms also forced the closure of Interstate 35 North at the Texas state line because of overturned vehicles and power lines that were thrown across the roadway. The OEM said the Chickasaw Nation was providing support for the storm response in Marietta.<sup>4</sup>

More specifically,

[a] slow-moving, but potent late April storm system produced an outbreak of at least 32 tornadoes and other severe weather from the late morning through the evening hours of April 27, 2024, and the early morning hours of April 28, 2024 in the NWS Norman forecast area. Excessive rainfall of 4 to 8.75 inches produced severe flash flooding and river flooding across parts of Oklahoma and western north Texas. Hail up to 3 inches in diameter and severe wind gusts up to 60 mph were observed during this event.

The NWS Norman staff and the NWS Tulsa staff have confirmed that at least 39 tornadoes occurred during the April 27-28, 2024 tornado outbreak. A total of 35 tornadoes occurred in Oklahoma, with 28 tornadoes documented in the NWS Norman forecast area and 8 tornadoes documented in the NWS Tulsa area. The tornado that occurred near Holdenville crossed from Hughes County into the NWS Tulsa forecast area in Okfuskee County.

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<sup>2</sup> Steven Yablonski, Scott Sistik, and Aaron Barker, *At Least 4 Dead After Oklahoma Tornadoes Cause Catastrophic Damage*, FOXWEATHER.COM, <https://www.foxweather.com/weather-news/tornado-outbreak-expected-plains-texas-oklahoma-kansas-april-27-severe-weather> (last updated Apr. 28, 2024).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

Teams from NWS Norman conducted damage path surveys in Oklahoma on April 28-30, 2024. More information will added to this web page as it becomes available. A link to a GIS file that contains tornado damage paths and damage survey areas is available below.<sup>5</sup>

The strongest of the 35 tornados to hit Oklahoma in this storm system was the EF4 tornado that hit the town of Marietta, Oklahoma, the county seat of Love County. The red line shown on the following image shows the damage path of that tornado:



The tornado that “hit the Marietta, OK area was rated EF-4” and “killed 1 person.”<sup>7</sup> It was “the first violent tornado to occur in the NWS Norman forecast area since the May 9, 2016 ‘Katie’ EF-4 tornado.”<sup>8</sup>

According to news reports, “[t]he Love County Sheriff’s Office said clean up efforts are expected to be lengthy. The most significant damage was to the city’s Homeland grocery store, Dollar General, hospital, nursing home and Dollar Tree Distribution Center.”<sup>9</sup> This grocery store was the city’s major and only grocery store and its destruction left residents without ready access to food.<sup>10</sup>

As posted by the Federal Emergency Management Agency on May 23, 2024:

Under a major disaster declaration (FEMA-4776-DR-OK) signed by the President on April 30, 2024, and Amendments 1-7, Dated May 3-May 17, 2024 (Incident Period of April 25, 2024 - May 9, 2024) the following counties have been designated eligible for PA Categories A&B: Carter, Cotton, Hughes, Johnston, Love, Murray, Okmulgee, Osage, Pittsburg, Pontotoc, Tillman, and Washita counties. Counties have been designated for PA assistance under Categories C-G Carter, Cotton, Hughes, Johnston, Love, Murray, Okmulgee, Pittsburg, Pontotoc, Tillman, and Washita counties.

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<sup>5</sup> Summary, *The April 27-28, 2024 Tornado Outbreak and Flash Flooding Event*, NAT’L WEATHER SERV., <https://www.weather.gov/oun/events-20240427> (last visited Jan. 24, 2025).

<sup>6</sup> *Id.*

<sup>7</sup> Fast Facts, *The April 27-28, 2024 Tornado Outbreak and Flash Flooding Event*, NAT’L WEATHER SERV., <https://www.weather.gov/oun/events-20240427> (last visited Jan. 24, 2025).

<sup>8</sup> *Id.*

<sup>9</sup> John Hayes, *‘We Show the Love’: Marietta Focused on Recovery in EF-4 Aftermath*, OKLAHOMA’S NEWS 4, <https://kfor.com/news/local/we-show-the-love-marietta-focused-on-recovery-in-ef-4-aftermath/> (last updated Apr. 30, 2024).

<sup>10</sup> *Id.*

IA has been designated for Carter, Hughes, Love, Murray, Okmulgee, Osage, Pontotoc, and Washita Counties.

All areas within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program (HMGP).<sup>11</sup>

As part of this announcement:

***The Federal Emergency Management Agency (FEMA) hereby gives notice to the public of its intent to reimburse eligible applicants for eligible costs to repair and/or replace facilities damaged by severe storms, straight-line winds, tornadoes, and flooding, occurring April 25, 2024-May 9, 2024.*** This notice applies to the Public Assistance (PA) Program, Individual Assistance (IA) Program, and Hazard Mitigation Grant Program (HMGP) implemented under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207.<sup>12</sup>

Further:

FEMA has determined that for certain types of facilities there are normally no alternatives to restoration in the floodplain or wetland. These are facilities that meet all of the following criteria: 1) FEMA's estimate of the cost of repairs is less than 50% of the cost to replace the entire facility, and is less than \$100,000; 2) the facility is not located in a floodway; 3) the facility has not sustained major structural damage in a previous Presidentially declared flooding disaster or emergency; and 4) the facility is not critical (e.g., the facility is not a hospital, generating plant, emergency operations center, or a facility that contains dangerous materials). ***FEMA intends to provide assistance with the restoration of these facilities to their pre-disaster condition***, except that certain measures to mitigate the effects of future flooding or other hazards may be included in the work. For example, a bridge or culvert restoration may include a larger waterway opening to decrease the risk of future washouts.

For routine activities, this will be the only public notice provided. Other activities and those involving facilities that do not meet the four (4) criteria are required to undergo more detailed review, including study of alternate locations. Subsequent public notices regarding such projects will be published, if necessary, as more specific information becomes available.<sup>13</sup>

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<sup>11</sup> *Public Notice 001*, FED. EMERGENCY MGMT. AGENCY, (DR-4776-OK, May 23, 2024) <https://www.fema.gov/disaster-federal-register-notice/dr-4776-ok-public-notice-001>.

<sup>12</sup> *Id.* (emphasis added).

<sup>13</sup> *Id.* (emphasis added).

And:

***FEMA also intends to provide HMGP funding to the State of Oklahoma to mitigate future disaster damages.*** These projects may include construction of new facilities, modification of existing, undamaged facilities, relocation of facilities out of floodplains, demolition of structures, or other types of projects to mitigate future disaster damages. In the course of developing project proposals, subsequent public notices will be published, if necessary, as more specific information becomes available.

...

Presidential Executive Order 12898, Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, directs each federal agency to avoid disproportionate and high adverse human health or environmental effects to low-income and minority populations. ***FEMA aims to identify low income and minority communities at the onset of a declared event to gain better understanding of how response and recovery efforts,*** including mitigation may impact such groups and communities. Additionally, once low income and minority communities have been identified, ***FEMA aims to minimize any potential adverse impacts related to FEMA response, recovery, and mitigation activities in those communities.***<sup>14</sup>

As of January 23, 2025, the Total Individual & Households Program dollars approved is \$10,334,611.52; and a total of 1548 Individual Assistance Applications have been approved.<sup>15</sup> With respect to the assistance category, Individual Assistance (IA), FEMA's website reports the following:

<b>Individual Assistance</b>	<b>Amount</b>
Total Housing Assistance (HA) - Dollars Approved	\$6,865,674.01
Total Other Needs Assistance (ONA) - Dollars Approved	\$3,468,937.51
Total Individual & Households Program Dollars Approved	\$10,334,611.52
Individual Assistance Applications Approved	1548 <sup>16</sup>

Yet, Oklahomans are reporting that FEMA has essentially abandoned the residents of Love County and that, even approximately 9 months later, little, if any, federal disaster aid or assistance has apparently been delivered or effectuated – regardless of any amount of money or number of applications approved. Reports indicate FEMA officials had contacted residents of the area, but that no follow-up by FEMA has occurred nor has any assistance been received. This is especially troubling given the extensive damage inflicted on the area's main hospital, Mercy Health Love County.<sup>17</sup> This FOIA Request seeks to shed light on this situation.

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<sup>14</sup> *Id.* (emphasis added).

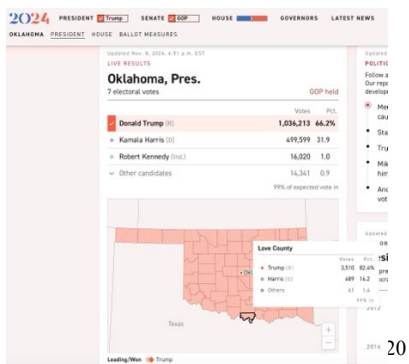
<sup>15</sup> *Oklahoma Severe Storms, Straight-line Winds, Tornadoes, and Flooding*, DR-4776-OK, FEMA.GOV, available at <https://www.fema.gov/disaster/4776>.

<sup>16</sup> *Id.*

<sup>17</sup> *Mercy Health Love County Hospital in Marietta Closed After Being Struck by Tornado*, FOX 23 NEWS (Apr. 29, 2024), available at

[https://www.fox23.com/news/mercy-health-love-county-hospital-in-marietta-closed-after-being-struck-by-tornado/article\\_683e5f12-06a5-11ef-987e-2f3b396b5a8f.html](https://www.fox23.com/news/mercy-health-love-county-hospital-in-marietta-closed-after-being-struck-by-tornado/article_683e5f12-06a5-11ef-987e-2f3b396b5a8f.html).

Given FEMA’s recent record of politicizing the administration of federal disaster aid by categorically denying assistance to Americans based on the content and viewpoint of their protected First Amendment expression and association,<sup>18</sup> and given the majority political affiliation of Oklahoma as a State and Love County in particular,<sup>19</sup> Mr. Echols and Ms. Magee are concerned FEMA is engaging in such conduct here. If records produced in response to this FOIA indicate otherwise, Oklahomans need to know that, as well.



### **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 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.**

<sup>18</sup> *FEMA Emergency Aid Discrimination*, ACLJ.ORG, <https://aclj.org/government-corruption/fema-emergency-aid-discrimination> (last visited Jan. 24, 2025).

<sup>19</sup> *Donald Trump Wins Oklahoma*, POLITICO, <https://www.politico.com/2024-election/results/oklahoma/> (last updated Jan. 23, 2025); *Election Results 2020: How Oklahoma Voted in the Presidential Election*, KOCO NEWS, <https://www.koco.com/article/oklahoma-election-results-2020-county-map/34923371> (last updated Dec. 11, 2020); *2016 Oklahoma Presidential Election Results*, POLITICO, <https://www.politico.com/2016-election/results/map/president/oklahoma/> (last updated Dec. 13, 2016); *2012 Oklahoma Presidential Results*, POLITICO, <https://www.politico.com/2012-election/results/president/oklahoma/> (last updated Nov. 19, 2012); *2008 Presidential Election Results – Oklahoma*, DAVE LEIP’S ATLAS OF U.S. PRESIDENTIAL ELECTIONS, <https://uselectionatlas.org/RESULTS/state.php?year=2008&off=0&elect=0&fips=40&f=0> (last visited Jan. 24, 2025).

<sup>20</sup> *Donald Trump Wins Oklahoma*, POLITICO, <https://www.politico.com/2024-election/results/oklahoma/> (last updated Jan. 23, 2025).

**For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is April 25, 2024, to the date this Request is processed.**

Pursuant to the FOIA, 5 U.S.C. § 552 *et seq.*, the Requestors, Mrs. Rachel Magee and Hon. Jon Echols, hereby request 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 Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official, regarding FEMA activities in or for the benefit of those living in Love County, Oklahoma, in response to storm systems including the severe storms, straight-line winds, tornadoes, and flooding, occurring April 25, 2024-May 9, 2024, including but not limited to the EF4 tornado damaging the town of Marietta, Oklahoma, as described in the Background section above.
2. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official, totaling or listing Individual Assistance (IA), including but not limited to how many applications submitted, approved, denied, under review, pending, or actually paid, for residents of Love County (NOTE: This request does NOT include personal identifying information of any assistance applicant).
3. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official, totaling or listing Public Assistance (PA) Program ), including but not limited to how many applications submitted, approved, denied, under review, pending, or actually paid, for residents of Love County (NOTE: This request does NOT include personal identifying information of any assistance applicant).
4. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official, totaling or listing Hazard Mitigation Grant Program (HMGP) assistance or actions ), including but not limited to how many applications submitted, approved, denied, under review, pending, or actually paid, for residents of Love County (NOTE: This request does NOT include personal identifying information of any assistance applicant).
5. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official – of any guidance, directive, briefing, instruction, memoranda, Powerpoint slides, Google Slides, or other such presentation material, or any other kind of training provided to any incident response personnel concerning contact or communication with residents of Love County.
6. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official – of all documents provided to any DSA Disaster Survivor Assistance Leads assigned to Love County to the extent such records are not responsive to Request Part 5 above.

7. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a GS-12 level or higher, or a personal staff or assistant of any such official, concerning the hospital, Mercy Health Love County, damaged extensively by the April 27, 2024, EF4 tornado.
8. Records within the custody of any DHS or FEMA official – of an appointee or Capstone level or a 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 or processing applications for any assistance including IA, PA, or HMGP.
9. Records of all policies, guidance, and any similar records of FEMA’s decision-making process in choosing municipalities, regions, or homes and properties to prioritize, de-prioritize, or avoid, specifically regarding whether municipalities or homes should be denied or avoided for political reasons.

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

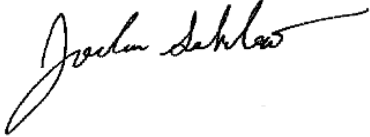
[REDACTED]

[REDACTED]



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

Respectfully submitted,



Jordan Sekulow  
Executive Director



Benjamin P. Sisney  
Senior Litigation Counsel



John A Monaghan  
Senior Litigation Counsel