

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HERITAGE FOUNDATION, *et al*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,

Defendant.

Civil Action No. 1:23-cv-01198 (CJN)

ORDER

Pending before the Court in this case under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, are the Parties’ Motions for Summary Judgment. *See generally* Def.’s Mot for Summ. J., ECF No. 23; Pls.’ Cross-Mot. for Summ. J., ECF No. 26. Plaintiffs challenge DHS’s decision to withhold responsive records under FOIA Exemptions 6, 7(C) and 7(E). *See* ECF No. 26-1 at 10-12, 19. DHS submitted three declarations explaining its search methodology and justification for withholding the records. *See generally* Jarrod Panter’s Decl., ECF No. 23-3; Shari Suzuki’s Decl., ECF No. 23-5; Catrina Pavlik-Keenan’s Decl., ECF No. 23-8.


FOIA authorizes the Court to review declarations and/or contested records *in camera* “to determine whether such records or any part thereof shall be withheld under any of the exemptions” contained within the statute. 5 U.S.C. § 552(a)(4)(B). “[*I*]n camera inspection may be particularly appropriate when . . . agency affidavits are insufficiently detailed to permit meaningful review of exemption claims . . . , when the number of withheld documents is relatively small, and when the dispute turns on the contents of the withheld documents, and not

the parties' interpretations of those documents." *Spirko v. U.S. Postal Serv.*, 147 F.3d 992, 996 (D.C. Cir. 1998) (internal quotation omitted).

Having reviewed the Parties' written submissions and heard oral argument on the Motions, the Court concludes that *in camera* review is necessary to determine whether the records in dispute come within the scope of the claimed exemptions. It is therefore

ORDERED that, on or before March 21, 2024, Defendant shall submit to the Court *in camera* a declaration or declarations that detail, with particularity, the records it is withholding and the particular harm that would arise from public disclosure of them. Defendant may supplement its declarations with any materials it deems appropriate. Defendant shall contact the Court to determine the preferred method of delivery and arrangements for returning the materials once the Court concludes its review.

DATE: March 7, 2024



CARL J. NICHOLS
United States District Judge