

Exhibit 1

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ATTORNEY GENERAL
(Firm State Bar No. 14000)

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Attorney for Plaintiff John Doe

*Attorneys for Plaintiffs Mark Brnovich and
the State of Arizona*

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mark Brnovich, in his official capacity as
Attorney General of Arizona; and the State
of Arizona,

Plaintiffs,

v.

Joseph R. Biden in his official capacity
as President of the United States;
Alejandro Mayorkas in his official
capacity as Secretary of Homeland
Security; United States Department of
Homeland Security; Troy Miller in his
official capacity as Senior Official
Performing the Duties of the
Commissioner of U.S. Customs and
Border Protection; and Tae Johnson in
his official capacity as Senior Official
Performing the Duties of Director of
U.S. Immigration and Customs
Enforcement; United States Office of
Personnel Management; Kiran Ahuja in
her official capacity as director of the
Office of Personnel Management and as
co-chair of the Safer Federal Workforce
Task Force; General Services

No. 2:21-cv-01568-MTL

**SECOND DECLARATION OF
REBEKAH BROWDER**

1 Administration; Robin Carnahan in her
2 official capacity as administrator of the
3 General Services Administration and as
4 co-chair of the Safer Federal Workforce
5 Task Force; Office of Management and
6 Budget; Shalanda Young in her official
7 capacity as Acting Director of the Office
8 of Management and Budget and as a
9 member of the Safer Federal Workforce
10 Task Force; Safer Federal Workforce
11 Task Force; Jeffrey Zients in his official
12 capacity as co-chair of the Safer Federal
13 Workforce Task Force and COVID-19
14 Response Coordinator.

15 Defendants.

16 I, Rebekah Browder, declare as follows:

17 1. I am an attorney licensed to practice law in Arizona. I am Section Chief
18 Counsel in the Division of Civil Rights Section (“DCRS”) of the Office of the Attorney
19 General of Arizona.

20 2. The Equal Employment Opportunity Commission (“EEOC”) has requested
21 that DCRS renew not only its September 19, 2019 Worksharing Agreement (“WSA”)
22 with the EEOC, but also the federal contract pursuant to which DCRS receives funding
23 from EEOC, referred to as the COPE, Contract Option Period Extension (the “Contract”).

24 3. The EEOC has not been clear on whether the Contractor Mandate would
25 apply to the DCRS and the rest of the Arizona Attorney General’s Office. However, a
26 recent EEOC communication to me on the subject suggests that it may apply. On
27 Monday, November 1, 2021, Robin L. Campbell, who is the State, Local, and Tribal
28 Program Manager at the EEOC Phoenix District Office, sent to me an email
acknowledging the possible applicability of Defendants’ COVID-19 vaccine Contractor
Mandate: “I received a response from Cheryl at HQ regarding your question about the
WSA and federal mandate for vaccinations. Cheryl informed me that the Executive Order

1 does not apply to the WSA; however when the actual contracts are executed, **the**
2 **requirements of the Executive Order may take effect**” (emphasis added).

3 4. Attached hereto as **Exhibit A** is a true and correct copy of Ms. Campbell’s
4 November 1, 2021 email.

5 5. On Tuesday, November 2, 2021, Robin L. Campbell sent to me an email
6 asking if I would “be able to send the 2 [attached] documents for review and signature by
7 the Director today.” The first attached document was the FY2022 Extension of the WSA.
8 The second attached document was named “Request for Contract Option Period
9 Extension (COPE) for FY 2022.pdf” and would renew the Contract.

10 6. Attached hereto as **Exhibit B** is a true and correct copy of Ms. Campbell’s
11 November 2, 2021 email.

12 7. Attached hereto as **Exhibit C** is a true and correct copy of the first
13 attachment to Ms. Campbell’s November 2 email, which is the proposed WSA renewal.

14 8. Attached hereto as **Exhibit D** is a true and correct copy of the second
15 attachment to Ms. Campbell’s November 2 email, which is the proposed Contract
16 (COPE) renewal.

17 9. On November 8, 2021, I sent an email to Robin L. Campbell providing the
18 EEOC with DCRS’s conditionally signed WSA and COPE because the EEOC had not
19 yet provided a definitive answer regarding the applicability of Contractor Mandate but
20 was nonetheless requesting that DCRS return the agreements. DCRS’s signed WSA and
21 COPE are specifically conditioned on the Attorney General’s Office and the Division of
22 Civil Rights exclusion from Executive Order No. 14042. As of the date of this
23 declaration, I have not received a response from the EEOC on whether they will accept
24 the modified WSA and COPE.

25 10. Attached hereto as **Exhibit E** is a true and correct copy of my November 8,
26 2021 email regarding the WSA and Contract renewal.

27 11. Attached hereto as **Exhibit F** is a true and correct copy of DCRS’s
28 conditional WSA renewal.

Exhibit A

From: ROBIN CAMPBELL <ROBIN.CAMPBELL@EEOC.GOV>
Sent: Monday, November 1, 2021 6:11 PM
To: Browder, Rebekah
Subject: COVID-19 and Federal Contracts

Hi Rebekah,

I received a response from Cheryl at HQ regarding your question about the WSA and federal mandate for vaccinations. Cheryl informed me that the Executive Order does not apply to the WSA; however when the actual contracts are executed, the requirements of the Executive Order may take effect.

Regards,
Robin

Robin L. Campbell (*She/her*)
State, Local & Tribal Program Manager
U.S. EEOC Phoenix District Office
3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012
602-661-0041
Fax 602-640-5071
Robin.Campbell@eeoc.gov



This message contains information that may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy, or disclose to anyone the message or information contained in the message. If you have received the message in error, please advise the sender or reply email at: robin.campbell@eeoc.gov and delete the message.

Exhibit B

From: ROBIN CAMPBELL <ROBIN.CAMPBELL@EEOC.GOV>
Sent: esday, November 2, 2021 12:0 PM
To: Browder, Rebekah
Subject: A e tens on and COPE F 2022
ttac ments: Attachment - F 2022 E tens on o rkshar n A reement.doc Attachment - Re est
or Contract O t on Per od E tens on COPE or F 2022. d

Hi Rebekah,

Will you be able to send the documents for review and signature by the irector
today

Thanks,
Robin

Robin L. Campbell (*She/her*)
State, Local & Tribal Program Manager
U.S. EEOC Phoenix District Office
3300 N. Central Avenue, Suite 690
Phoenix, AZ 85012
602-661-0041
Fax 602-640-5071
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Exhibit C

FY 2022 EXTENSION OF WORKSHARING AGREEMENT

Inasmuch as there have been no substantive changes in the processes, procedures, statutes, policies or regulations that would adversely affect or substantially alter the work sharing arrangement between the _____ (EEOC) District Office and the _____ (Name of FEPA), or that would affect the processing of charges filed under the pertinent Federal, state or local statutes, the parties agree to extend the current work sharing agreement that was executed on (insert date prior full Worksharing Agreement was fully executed) through the FY 2022 Charge Resolution Contract Option Period, from October 1, 2021 through September 30, 2022. The agencies agree to work together in furtherance of the provisions of EEOC's current Strategic Plan when assessing the allocation of charges under this agreement and to cooperate in compliance and enforcement efforts as well as training, outreach and technical assistance efforts encompassed by the Plan. This agreement, as well as the attendant Worksharing Agreement may be reopened and amended by mutual consent of the parties.

For the FEPA

Date

For the EEOC District Office

Date

Exhibit D

**REQUEST FOR
CONTRACT OPTION PERIOD EXTENSION (COPE)
FOR FY 2022**

(FEP AGENCY NAME)

I. FY 2022 CHARGE RESOLUTION CONTRACT REQUEST

PRODUCTION DURING MEASUREMENT PERIOD

(May 1, 2020 - April 30, 2021)

OR

FEP REQUEST IN CONSULTATION WITH EEOC AND

IN CONSIDERATION OF THREE-YEAR PERFORMANCE ANALYSIS: _____

(NOTE: Measurement Period production excludes dual-filed FEP Agency resolutions submitted prior to May 1, 2020, and pending review in the EEOC District Office as of May 1, 2020, and includes dual-filed FEP Agency charges resolved on or after May 1, 2020, that are submitted to and pending review in the EEOC District Office as of April 30, 2021, if any.)

II. FY 2022 INTAKE SERVICES CONTRACT REQUEST

NUMBER OF CHARGES ACCEPTED FOR INTAKE SERVICES CONTRACT

CREDIT BY EEOC FROM MAY 1, 2020 TO APRIL 30, 2021

OR

FEP REQUEST IN CONSULTATION WITH EEOC AND

IN CONSIDERATION OF THREE-YEAR PERFORMANCE ANALYSIS: _____

The responses contained herein have been developed by the FEP Agency in consultation with the appropriate EEOC District Office. All differences, unless otherwise noted in an attachment to this form, have been resolved. The FEP Agency is aware that this information, in conjunction with the information provided by the EEOC District Office, will be used as the basis for the recommendation and misrepresentations contained herein may result in a recommendation for no contract, or termination of the contract.

Date

For the FEP Agency (Signature)

Date

For the EEOC District Office (Signature)

Exhibit E

From: Browder, Rebekah
Sent: Monday, November 8, 2021 11: 2 AM
To: robin.cam bell@eeoc. gov
Cc: Ross, Leslie
Subject: Signed COPE and WSA
Attachments: DCR F 2022 E tensions on on workshare Agreement - 1 . d DCR Request for Contract Option Period E tensions on COPE for F 2022. d

Hi Robin,

I've attached the signed COPE and the WSA for EEOC's signature and execution. Based on our previous communications, we added language that specifically excludes DCRS and the AGO from the Executive Order.

Sincerely,
Rebekah Browder

Rebekah Browder
Section Chief Counsel
Division of Civil Rights Section, Civil Litigation Division
Office of Arizona Attorney General Mark Brnovich

Exhibit F

FY 2022 EXTENSION OF WORKSHARING AGREEMENT

Inasmuch as there have been no substantive changes in the processes, procedures, statutes, policies or regulations that would adversely affect or substantially alter the work sharing arrangement between the EEOC Phoenix District Office and the Arizona Attorney General's Office, Civil Rights Division, or that would affect the processing of charges filed under the pertinent Federal, state or local statutes, the parties agree to extend the current work sharing agreement that was executed on September 30, 2019 through the FY 2022 Charge Resolution Contract Option Period, from October 1, 2021 through September 30, 2022. The agencies agree to work together in furtherance of the provisions of EEOC's current Strategic Plan when assessing the allocation of charges under this agreement and to cooperate in compliance and enforcement efforts as well as training, outreach and technical assistance efforts encompassed by the Plan. This agreement, as well as the attendant Worksharing Agreement may be reopened and amended by mutual consent of the parties.

*



For the FEPA

11/8/2021

Date

For the EEOC District Office

Date

*The Arizona Attorney General's Office, Civil Rights Division's signature and agreement to this FY22 Extension of Worksharing Agreement ("WSA") is expressly conditioned on and subject to the mutual understanding of the parties that any purported federal government vaccine mandate, including but not limited to President Biden's Executive Order No. #14042 - Ensuring Adequate COVID Safety Protocols for Federal Contractors (September 9, 2021) ("EO") and all regulations resulting from or related to the EO (collectively "federal vaccine mandate"), does not apply and will not apply to the Arizona Attorney General's Office and the Arizona Attorney General's Office is excluded from any federal vaccine mandate. Furthermore, the Arizona Attorney General's Office, Civil Rights Division signs this agreement as a sovereign state collaborating with the EEOC in the processing of employment discrimination filings and not as a federal contractor. It is the Arizona Attorney General's Office's understanding, based on assurances from the EEOC, that the "Executive Order does not apply to the WSA." Accordingly, the EO and any regulations resulting therefrom or related thereto are inapplicable. If there is not a mutual understanding between the EEOC and the Arizona Attorney General's Office regarding the non-applicability of a purported federal vaccine mandate to the Arizona Attorney General's Office, then the Arizona Attorney General's Office's signature is void and the Arizona Attorney General's Office does not enter into or agree to the FY22 WSA with the EEOC.

Exhibit G

**REQUEST FOR
CONTRACT OPTION PERIOD EXTENSION (COPE)
FOR FY 2022**

The Arizona Attorney General's Office, Civil Rights Division
(FEP AGENCY NAME)

I. FY 2022 CHARGE RESOLUTION CONTRACT REQUEST

PRODUCTION DURING MEASUREMENT PERIOD
(May 1, 2020 - April 30, 2021)

OR

FEPA REQUEST IN CONSULTATION WITH EEOC AND
IN CONSIDERATION OF THREE-YEAR PERFORMANCE ANALYSIS: 570

(NOTE: Measurement Period production excludes dual-filed FEP Agency resolutions submitted prior to May 1, 2020, and pending review in the EEOC District Office as of May 1, 2020, and includes dual-filed FEP Agency charges resolved on or after May 1, 2020, that are submitted to and pending review in the EEOC District Office as of April 30, 2021, if any.)

II. FY 2022 INTAKE SERVICES CONTRACT REQUEST

NUMBER OF CHARGES ACCEPTED FOR INTAKE SERVICES CONTRACT
CREDIT BY EEOC FROM MAY 1, 2020 TO APRIL 30, 2021

OR

FEPA REQUEST IN CONSULTATION WITH EEOC AND
IN CONSIDERATION OF THREE-YEAR PERFORMANCE ANALYSIS: 50

The responses contained herein have been developed by the FEP Agency in consultation with the appropriate EEOC District Office. All differences, unless otherwise noted in an attachment to this form, have been resolved. The FEP Agency is aware that this information, in conjunction with the information provided by the EEOC District Office, will be used as the basis for the

recommendation and misrepresentations contained herein may result in a recommendation for no contract, or termination of the contract.

11/8/2021

Date _____

* 
For the FEP Agency (Signature)

Date

For the EEOC District Office (Signature)

The Arizona Attorney General's Office, Civil Rights Division's signature and agreement to this FY22 CONTRACT OPTION PERIOD EXTENSION ("COPE") is expressly conditioned on and subject to the mutual understanding of the parties that any purported federal government vaccine mandate, including but not limited to President Biden's Executive Order No. #14042 - Ensuring Adequate COVID Safety Protocols for Federal Contractors (September 9, 2021) ("EO") and all regulations resulting from or related to the EO (collectively "federal vaccine mandate"), does not apply and will not apply to the Arizona Attorney General's Office and the Arizona Attorney General's Office is excluded from any federal vaccine mandate. Furthermore, the Arizona Attorney General's Office, Civil Rights Division signs this agreement as a sovereign state collaborating with the EEOC in the processing of employment discrimination filings and not as a federal contractor. It is the Arizona Attorney General's Office's understanding, based on assurances from the EEOC, that the "Executive Order does not apply." Accordingly, the EO and any regulations resulting therefrom or related thereto are inapplicable to the Arizona Attorney General's Office. If there is not a mutual understanding between the EEOC and the Arizona Attorney General's Office regarding the non-applicability of a purported federal vaccine mandate to the Arizona Attorney General's Office, then the Arizona Attorney General's Office's signature is void and the Arizona Attorney General's Office does not enter into or agree to the FY22 COPE with the EEOC.