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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

INTERNATIONAL REFUGEE ASSISTANCE
PROJECT, INC.,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF STATE,

Defendant.

20 Civ. 4728 (JPO)

**AMENDED
ANSWER**

Defendant the United States Department of State, by its attorney, Audrey Strauss, Acting United States Attorney for the Southern District of New York, respectfully submits this amended answer to plaintiff's complaint on information and belief as follows:

INTRODUCTION

1. Paragraph 1 consists of plaintiff's characterization of this action, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 1, except admits the allegations in the second sentence.

2. Defendant denies knowledge or information sufficient to form a belief as to the allegations in the first and third sentences of paragraph 2, which pertain to plaintiff's purported motives in seeking the requested documents. Admits the allegations in the second sentence of paragraph 2.

3. Paragraph 3 consists of plaintiff's characterization of this action, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 3.

JURISDICTION AND VENUE

4. Paragraph 4 consists of plaintiff's conclusions of law regarding subject matter jurisdiction, to which no response is required.

5. Paragraph 5 consists of plaintiff's conclusions of law regarding venue, to which no response is required.

PARTIES

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6.

7. Admits the allegations in the first and second sentences of paragraph 7. The allegations in the third sentence of paragraph 7 consist of conclusions of law and plaintiff's characterizations of its FOIA requests, to which no response is required. To the extent a response is deemed required, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of paragraph 7.

STATEMENT OF FACTS

8. Admits the allegations in the first sentence of paragraph 8. The second and third sentences of paragraph 8 consist of plaintiff's characterization of various special programs created

by Congress, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to Pub. L. 109-163, § 1059, 119 Stat. 3443 (Jan. 6, 2006); Pub. L. 110-36, 121 Stat. 227 (June 15, 2007); Pub. L. 110-242, 122 Stat. 1567 (June 3, 2008); Pub. L. 110-161, § 525, 121 Stat. 2212 (Dec. 26, 2007); Pub. L. 110-181, § 1242, 122 Stat. 395 (Jan. 28, 2008); Pub. L. 111-8, § 602, 123 Stat. 807 (Mar. 10, 2009); Pub. L. 114-328, § 1214, 130 Stat. 2479 (Dec. 23, 2016); and Pub. L. 116-92, §§ 1215, 1219 (Dec. 19, 2019), for complete and accurate statements of their contents.

9. Paragraph 9 consists of plaintiff's characterization of various special programs created by Congress, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to Pub. L. 109-163, § 1059, 119 Stat. 3443 (Jan. 6, 2006); Pub. L. 110-36, 121 Stat. 227 (June 15, 2007); Pub. L. 110-242, 122 Stat. 1567 (June 3, 2008); Pub. L. 110-161, § 525, 121 Stat. 2212 (Dec. 26, 2007); Pub. L. 110-181, § 1242, 122 Stat. 395 (Jan. 28, 2008); Pub. L. 111-8, § 602, 123 Stat. 807 (Mar. 10, 2009); Pub. L. 114-328, § 1214, 130 Stat. 2479 (Dec. 23, 2016); and Pub. L. 116-92, §§ 1215, 1219 (Dec. 19, 2019), for complete and accurate statements of their contents.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10.

11. Admits the allegations in the first and second sentences of Paragraph 11. Denies the allegations in the third sentence of paragraph 11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the fourth sentence of paragraph 11. The fifth sentence of paragraph 11 consists of plaintiff's characterization of a State Department report, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to the cited report, available at

<https://travel.state.gov/content/dam/visas/SIVs/Q4-Afghan-SIV-Report-October-2019.pdf>, for a complete and accurate statement of its contents.

12. Paragraph 12 consists of plaintiff's characterization of various special programs created by Congress, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to Pub. L. 109-163, § 1059, 119 Stat. 3443 (Jan. 6, 2006); Pub. L. 110-36, 121 Stat. 227 (June 15, 2007); Pub. L. 110-242, 122 Stat. 1567 (June 3, 2008); Pub. L. 110-161, § 525, 121 Stat. 2212 (Dec. 26, 2007); Pub. L. 110-181, § 1242, 122 Stat. 395 (Jan. 28, 2008); Pub. L. 111-8, § 602, 123 Stat. 807 (Mar. 10, 2009); Pub. L. 114-328, § 1214, 130 Stat. 2479 (Dec. 23, 2016); and Pub. L. 116-92, §§ 1215, 1219 (Dec. 19, 2019), for complete and accurate statements of their contents.

13. The first sentence of paragraph 13 consist of plaintiff's characterization of the National Defense Authorization Act for Fiscal Year 2017, to which no response is required. To the extent a response is deemed required, Defendant respectfully refers the Court to the cited Act, available at Pub. L. 114-328, § 1214, 130 Stat. 2479 (Dec. 23, 2016), for a complete and accurate statement of its contents. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of paragraph 13.

14. Paragraph 14 consists of plaintiff's characterization of the National Defense Authorization Act for Fiscal Year 2020, and conclusions of law, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to the cited Act, available at Pub. L. 116-92, §§ 1215, 1219 (Dec. 19, 2019), for a complete and accurate statement of its contents. To the extent the paragraph characterizes the National Defense Authorization Act as "adding further confusion," denies as argumentative.

15. The allegations in paragraph 15 consist of plaintiff's characterization of the State Department's website and conclusions of law, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to the cited portion of the website, available at <https://travel.state.gov/content/travel/en/us-visas/immigrate/special-immg-visa-afghans-employed-us-gov.html>, for a complete and accurate statement of its contents.

16. Paragraph 16 consists of plaintiff's characterization of the National Defense Authorization Act for Fiscal Year 2020, and conclusions of law, to which no response is required. To the extent a response is deemed required, denies knowledge or information sufficient to form a belief as to the truth of the allegations regarding denial of COM applications in paragraph 16.

17. Denies knowledge or information sufficient to form a belief as to the truth or falsity of allegations in the first sentence of Paragraph 17 regarding the Plaintiffs' motives in seeking the requested records. Deny as argumentative the characterization of SIV processes as "opaque." The allegations in the second sentence of paragraph 17 consist of plaintiff's characterization of its FOIA requests, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to plaintiff's FOIA requests for complete and accurate statements of their contents. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence of paragraph 17.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 18.

20. Defendant denies the allegations in Paragraph 20 except admits and avers that it received FOIA requests from plaintiff on May 26, 2017 (the “First FOIA Request”), and December 13, 2019 (the “Second FOIA Request”).

The First FOIA Request

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21, except admits that a true and correct copy of the First FOIA Request is attached to the Complaint as Exhibit A and avers that it received the First FOIA Request on May 26, 2017.

22. Paragraph 22 consists of plaintiff’s characterization of the First FOIA Request, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to the First FOIA Request for a complete and accurate statement of its contents.

23. Defendant admits that it acknowledged receipt of the First FOIA Request by letter to plaintiff dated July 12, 2017, which speaks for itself and is the best evidence of its contents.

24. Defendant admits that it submitted a letter to plaintiff dated July 20, 2017, concerning the First FOIA Request, which speaks for itself and is the best evidence of its contents.

25. Paragraph 25 consists of plaintiff’s characterization of the State Department Foreign Affairs Manual, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to the State Department Foreign Affairs Manual for a complete and accurate statement of its contents.

26. Paragraph 26 consists of plaintiff’s characterization of defendant’s July 20, 2017, letter concerning the First FOIA Request, which speaks for itself and is the best evidence of its contents.

27. Admits the allegations in paragraph 27.

28. The first sentence of paragraph 28 consists of conclusions of law, to which no response is required. To the extent that a response is deemed required, defendant denies the allegations. In response to the allegations contained in the second sentence of paragraph 28, Defendant admits that it received a letter from IRAP on December 12, 2017, which speaks for itself and is the best evidence of its contents.

29. Admits that defendant submitted an acknowledgement letter to plaintiff on December 20, 2017, which speaks for itself and is the best evidence of its contents.

30. In response to the allegations contained in the first and third sentences of paragraph 30, defendant admits that, on or about January 26, 2018, it produced 34 documents in response to plaintiff's First FOIA Request, which speak for themselves and are the best evidence of their contents. The second sentence of Paragraph 30 consist of plaintiff's characterization of the First FOIA Request, to which no response is required. To the extent a response is deemed required, defendant respectfully refers the Court to the First FOIA Request for a complete and accurate statement of its contents. The fourth sentence of paragraph 30 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in the fourth sentence of paragraph 30.

31. Admits that it received an administrative appeal from plaintiff in connection with the First FOIA Request on March 9, 2018, which speaks for itself and is the best evidence of its contents.

32. Denies the allegations contained in paragraph 32, and avers that it communicated with plaintiff concerning the administrative appeal filed in connection with the First FOIA Request, most recently by e-mail on March 3, 2020, and by letter dated July 9, 2020.

33. Paragraph 33 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 33.

The Second FOIA Request

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 34, but avers that it received the Second FOIA Request on December 13, 2019. The remaining allegations in paragraph 34 consist of plaintiff's characterization of the Second FOIA Request, to which no response is required. To the extent a response is deemed required, defendant admits that a copy of the Second FOIA Request is attached to the Complaint as Exhibit B, and respectfully refers the Court to the Second FOIA Request for a complete and accurate statement of its contents.

35. Defendant admits that it acknowledged receipt of the Second FOIA Request by letter to plaintiff dated December 23, 2019, which speaks for itself and is the best evidence of its contents.

36. Admits the allegations in paragraph 36.

37. Admits the allegations in paragraph 37.

38. Paragraph 38 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 38.

CLAIM FOR RELIEF

39. Paragraph 39 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 39.

40. Paragraph 40 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 40.

41. Paragraph 41 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 41.

42. Paragraph 42 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies the allegations in paragraph 42.

43. Paragraph 43 consists of conclusions of law, to which no response is required. To the extent a response is deemed required, defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43.

* * *

The remaining paragraphs of the complaint contain plaintiff's prayer for relief, to which no response is required. To the extent a response is deemed required, defendant denies that plaintiff is entitled to any relief.

FIRST DEFENSE

The Court lacks subject matter jurisdiction over plaintiff's requests for relief that exceed the relief authorized under FOIA, 5 U.S.C. § 552.

SECOND DEFENSE

Some or all of the requested documents are exempt from disclosure. *See* 5 U.S.C. § 552(b).

THIRD DEFENSE

Defendant has exercised due diligence in commencing their processing of plaintiff's FOIA requests, and exceptional circumstances exist that necessitate additional time for defendants to complete their processing of the FOIA requests. *See* 5 U.S.C. § 552(a)(6)(C).

WHEREFORE, defendant demands judgment dismissing plaintiff's complaint and granting such further relief as this Court deems proper, including costs and disbursements.

Dated: New York, New York
August 14, 2020

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