

Exhibit C

DOS Request



International Refugee
Assistance Project

May 24, 2019

Via Certified Mail

Office of Information Programs and Services (IPS)
U.S. Department of State
State Annex 2 (SA-2)
515 22nd Street, N.W.
Washington, D.C. 20522-8100

Re: Freedom of Information Request Regarding Refugee Processing
Expedited Processing & Fee Waiver/Limitation Requested

To Whom It May Concern:

The International Refugee Assistance Project (“IRAP”) submits this Freedom of Information Act request (“Request”) seeking records relating to refugee processing. The Request is made pursuant to 5 U.S.C. § 552 *et seq.*, and its relevant implementing regulations, 22 C.F.R. Part 171 *et seq.*

BACKGROUND

The world is currently in its largest refugee crisis since World War II – there are nearly 25.4 million refugees who have been displaced from their homes and are seeking safety in another country.¹ For decades, the United States has played a leading role in helping these vulnerable individuals and families build new lives in the country through its U.S. Refugee Admissions Program (“USRAP”).² In the recent years, the USRAP has undergone significant changes. Under the Trump Administration, heightened security screening policies and drastic reductions in staff administering the refugee program have caused massive delays in refugee

¹ UNHCR, *Figures at a Glance*, <https://www.unhcr.org/figures-at-a-glance.html> (last visited May 2, 2019).

² U.S. Dep’t of State, *U.S. Refugee Admissions Program*, <https://www.state.gov/j/prm/ra/admissions/index.htm> (last visited May 2, 2019).

processing.³ And in Fiscal Year 2019, President Trump capped refugee admissions at a historic low 30,000.⁴

The Department of State is likely to have records responsive to this request because the Bureau of Population, Refugees and Migration (“PRM”) manages the USRAP in conjunction with the Department of Homeland Security and the Department of Health and Human Services. PRM publishes the Overseas Processing Manual that compiles the policies governing overseas processing for the USRAP. In addition, the Department of State contracts with and manages seven Resettlement Support Centers (“RSCs”) and nine domestic Resettlement Agencies (“RAs”) that assist in resettling refugees in the United States.⁵

REQUESTER

IRAP is a 501(c)(3) organization that organizes law students and lawyers to develop and enforce a set of legal and human rights for refugees and displaced persons. IRAP utilizes media and systemic policy advocacy, direct legal aid, and impact litigation to serve the world’s most persecuted individuals and empower the next generation of human rights leaders.

RECORDS REQUESTED

The Requester requests disclosure of any and all records prepared, received, transmitted, collected, and/or maintained by the Department of State, or sub-offices thereof, that reflect the following:

1. The most recent version of the United States Refugee Admission Program (“USRAP”) Overseas Processing Manual;
2. All USRAP Program Announcements sent by PRM to Resettlement Support Centers (“RSC”) since January 1, 2009;
3. All current standard operating procedures (“SOPs”) related to the USRAP, including but not limited to those provided to the Resettlement Support Centers, as well as any prior versions issued since January 1, 2014;
4. All current standard operating procedures (“SOPs”), manuals, or guidance, and any prior versions issued since January 1, 2014, on:

³ Dan De Luce & Julia Ainsley, *Trump Admin Intentionally Slowing FBI Vetting of Refugees, Ex-Officials Say* (Apr. 24, 2018), <https://www.nbcnews.com/politics/immigration/trump-admin-intentionally-slowing-fbi-vetting-refugees-ex-officials-say-n903346>.

⁴ Julie Hirschfeld David, *Trump to Cap Refugees Allowed Into U.S. at 30,000, a Record Low* (Sept. 17, 2018), <https://www.nytimes.com/2018/09/17/us/politics/trump-refugees-historic-cuts.html>.

⁵ Bureau of Population, Refugees, and Migration, *Proposed Refugee Admissions for Fiscal Year 2019* (Sept.24, 2018), <https://www.state.gov/remarks-and-releases-bureau-of-population-refugees-and-migration/proposed-refugee-admissions-for-fiscal-year-2019/>.

- a. Data entry in the Worldwide Refugee Admissions Processing System (“WRAPS”);
 - b. Data maintenance of WRAPS; and
 - c. Data retrieval from WRAPS.
5. All records related to the processing of this Request. *See* 22 C.F.R. § 171.11(j).

If any records responsive or potentially responsive to the Request have been destroyed, our Request includes, but is not limited to, any and all records relating or referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

DEFINITIONS

“Records”: The term “records” as used in the Request includes all records preserved in electronic or written form, including but not limited to: e-mails, including the entire email chain and all attachments to any and all emails within that chain; text communications between phones or other electronic devices (including but not limited to, communications sent via SMS or other text, Blackberry Messenger, iMessage, WhatsApp, Signal, Gehat, or Twitter direct message); images, video, and audio recorded on cell phones; voicemail messages; social-media posts; formal and informal presentations; alerts; bulletins; advisories; and minutes or notes of meetings and phone calls.

Agency’s search obligation: We request searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of our Request.

Format of production: The Requester requests that responsive electronic records be provided electronically in their native file format if possible. *See* 5 U.S.C. § 552(a)(3)(B). Please produce emails with parent-child relationships (the association between an attachment to an email or other record and its parent record) preserved. If production in the format requested is not possible, please provide the records electronically in a text-searchable PDF format, in the best image quality in the agency’s possession, in separate, Bates-stamped files.

REQUEST FOR EXPEDITED PROCESSING

The Requester seeks expedited processing under 5 U.S.C. § 552(a)(6)(E)(i)(I) because of “compelling need” for the requested records. There is “compelling need,” as defined by the statute, because IRAP is an organization “primarily engaged in disseminating information” and has an “urgency to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II); 22 C.F.R. § 171.11(f)(2).

First, dissemination of information is an integral component of IRAP’s mission to educate and cultivate the next generation of human rights leaders. *See Leadership Conference on Civil Rights v. Gonzales*, 404 F. Supp. 2d 246, 260 (D.D.C. 2005) (finding that an organization whose mission is to serve as the site of record for relevant and up-to-the-minute civil rights news

and information is primarily engaged in disseminating information). IRAP routinely engages in gathering information from its legal and policy work including through FOIA, analyzing the information, and distributing it. IRAP has published a number of policy reports to the public on refugee resettlement issues,⁶ and maintains “Know Your Rights” and other educational materials on its website.⁷ It routinely releases press releases and publishes a blog on its work and on issues relating to refugee policy.⁸ It has a quarterly newspaper that reaches over 25,000 individuals and a shorter newsletter that is released every 2-3 weeks. It maintains a Facebook account with over 40,000 followers,⁹ and a Twitter account with over 15,000 followers.¹⁰

Second, there is an urgency to inform the public about the records subject to this Request. Changes to the U.S. Refugee Admissions Program’s processing has been the subject of extensive media coverage, reflecting public interest in the issue. *See e.g.*, Yeganeh Torbati & Omar Mohammed, *Special Report: Slamming the door – How Trump transformed U.S. refugee program*, REUTERS (Sept. 12, 2018), <https://www.reuters.com/article/us-usa-immigration-refugees-specialrepor/special-report-slamming-the-door-how-trump-transformed-u-s-refugee-program-idUSKCN1LS1H8>; Deborah Amos, *2018 Was a Year of Drastic Cuts to U.S. Refugee Admissions*, NPR (Dec. 27, 2018), <https://www.npr.org/2018/12/27/680308538/2018-was-a-year-of-drastic-cuts-to-u-s-refugee-admissions>. Jonathan Blitzer, *The Trump Administration’s Hard Line on Refugees Comes Under Fire*, NEW YORKER (May 1, 2018), <https://www.newyorker.com/news/daily-comment/the-trump-administrations-hard-line-on-refugees-comes-under-fire>; *see also Am. Civil Liberties Union v. U.S. Dep’t of Justice*, 321 F. Supp. 2d 24, 32 (D.D.C. 2004) (holding, under an identical expedited processing regulation, that “suggestions of possible violations of privacy rights” presented by news articles raised questions about government integrity);

We certify that the foregoing statements made in support of expedited processing to be true and correct under 5 U.S.C. § 552(a)(6)(E)(vi). Please provide a determination regarding expedited processing within 10 days. *See* 5 U.S.C. § 552(a)(6)(E)(ii)(I); 22 C.F.R. § 171.11(f)(4).

⁶ *See, e.g.*, IRAP, *A Question of Honor – The Ongoing Importance of the Afghan SIV Program* (Mar. 22, 2017), *available at* <https://refugeerights.org/irap-releases-policy-report-on-afghan-special-immigrant-visa-program/>; IRAP and Human Rights First, *Private Sponsorship of Refugee Resettlement in the United States: Guiding Principles and Recommendations* (Oct. 17, 2016) (white paper on private refugee sponsorship program), *available at* <https://refugeerights.org/press-release-irap-and-human-rights-first-release-white-paper-on-private-refugee-sponsorship-program/>.

⁷ *See* Know Your Rights, <https://refugeerights.org/know-your-rights/> (last visited Sep. 8, 2017).

⁸ *See* Press Room, <https://refugeerights.org/press-room/> (last visited Sep. 8, 2017); Blog, <https://refugeerights.org/blog1/> (last visited Sep. 8, 2017).

⁹ *See* IRAP, Facebook, <https://www.facebook.com/RefugeeAssist/>.

¹⁰ *See* IRAP (@RefugeeAssist), Twitter, <https://twitter.com/RefugeeAssist>.

REQUEST OF WAIVER OF OR LIMITATION ON FEES

IRAP seeks fee waivers on the grounds described below. Fee waivers should be granted here, given that Congress intended FOIA to be construed liberally in favor of granting waivers for noncommercial requesters like IRAP. *See Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (internal quotation marks and citations omitted)).

A. All Fees Should Be Waived Because Disclosure is In the Public Interest.

The Requester asks that all fees associated with this FOIA request be waived because the disclosure of the requested records is “in the public interest.” 5 U.S.C. § 552(a)(4)(A)(iii). This is so because disclosure is “likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” *Id.*; 22 C.F.R. § 171.16(a).

The Request meets each of the factors that the agency should consider under 22 C.F.R. § 171.16(a)(1) in determining whether the disclosure is “likely to contribute significantly to public understanding of operations or activities of the government.” First, the Request pertains directly to “operations or activities of the federal government.” *Id.* § 171.16(a)(1)(i). Second, the Request is “likely to contribute to an increased public understanding of” the government’s operations or activities, *id.* § 171.16(a)(1)(ii), specifically by helping the public determine the policies governing agency processing of refugee applications. Third, the disclosure of the requested records will contribute to “the understanding of a reasonably broad audience of persons interested in the subject,” *id.* § 171.16(a)(1)(iii), because IRAP intends to analyze the responsive records and publish its findings in support of its policy and advocacy work. Finally, disclosure will enhance the public’s understanding of the subject of the Request “to a significant extent,” *id.* § 171.16(a)(1)(iv). Although there has been significant media and public interest in these issues, as described above, much remains unknown and the requested records will illuminate agency guidelines for processing refugee applications.

The Request is also not in the commercial interest of IRAP. Any records obtained as a result of this FOIA request will be made available to the public at no cost.

B. In the Alternative, Search and Review Fees Should Be Waived Because IRAP Is a Representative of the News Media.

If the agency does not waive all fees as requested above, it should at minimum waive search and review fees because IRAP meets the statutory and regulatory definitions of “representative of the news media.” 5 U.S.C. § 552(a)(4)(A)(ii)(II). This term refers to any “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii); *see also* 22 C.F.R. § 171.14(b)(5)(ii)(C).

As described above, IRAP routinely gathers information through its legal and policy work, including through FOIA requests, processes the information, and distributes that work to a broad audience. *See supra*. Other non-profits who similarly engage in media advocacy, in addition to other policy advocacy and legal work, have been found to be a “representative of a news media” for purposes of a fee waiver. *See, e.g., Serv. Women’s Action Network v. Dep’t of Def.*, 888 F. Supp. 2d 282, 287-88 (D. Conn. 2012) (concluding that the ACLU is a news representative); *Elec. Privacy Info. Ctr. v. Dep’t of Def.*, 241 F. Supp. 2d 5, 10-15 (D.D.C. 2003) (same for the EPIC); *Judicial Watch, Inc. v. U.S. Dep’t of Justice*, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (same for Judicial Watch, a public interest law firm with a website and a radio show).

* * * * *

We expect your response within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i). In your response, please specify the search that was undertaken to locate records responsive to this Request. If the Request is denied in part or in whole, please justify all redactions by reference to specific FOIA exemptions and release all segregable portions of otherwise exempt material as provided in 22 C.F.R. § 171.11(l).

Please furnish copies of all applicable information to:

Kate Meyer
International Refugee Assistance Project
One Battery Park Plaza
New York, New York 10004
kmeyer@refugeerights.org
516-838-1975

Please notify us in advance if any costs relating to the Request exceeds \$100.00.

If you have any questions regarding this request, please contact Kate Meyer at 516-838-1975 or kmeyer@refugeerights.org. Thank you in advance for your timely cooperation.

Sincerely,

/s/ Kate Meyer

Kate Meyer
Litigation Staff Attorney
International Refugee Assistance Project