



International Refugee  
Assistance Project

March 31, 2022

OSD/JS FOIA Requester Service Center, Office of Freedom of Information  
1155 Defense Pentagon  
Washington, DC 20301-1155  
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**RE: FOIA Request for Records Related to Project Rabbit**

Dear Freedom of Information Officer:

This letter constitutes a request pursuant to the Freedom of Information Act (FOIA) on behalf of the International Refugee Assistance Project (IRAP). IRAP seeks a fee waiver and expedited processing.

**RECORDS REQUESTED**

IRAP seeks disclosure of:

1. Current policies, procedures, directives, training, guidance, and similar documents related to Project Rabbit, the Department of Defense's initiative to "help expedite and streamline the SIV process for Afghan nationals who were employed by DOD contractors."<sup>1</sup>
2. Aggregate data or statistics related to Project Rabbit.

**THE REQUESTOR**

IRAP is a 501(c)(3) nonprofit and nonpartisan 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.

IRAP publishes reports, know-your-rights documents, and other educational materials that are widely disseminated to the public, including through its website. These materials are made available to everyone—including tax-exempt organizations, non-profit groups, lawyers, law students, refugees, and other displaced people—free of charge. IRAP also maintains a blog; publishes an electronic newsletter distributed to subscribers via email; and releases information

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<sup>1</sup> Letter from Dr. Colin H. Kahl, Under Secretary of Defense for Policy to Senator Tammy Duckworth, (2021), <https://www.duckworth.senate.gov/imo/media/doc/21.09.28%20-%20DOD%20Response%20to%20Senator%20Duckworth%20Letter%20to%20State%20and%20DOD%20-%20Afghan%20SIV%20Program%20Employment%20Verification%20Alternatives.pdf>.

via social media platforms such as Twitter and Facebook. Material obtained through FOIA are an integral part of this work, and IRAP routinely publishes materials that it obtains through FOIA.

Accordingly, IRAP is a “representative of the news media” within the meaning of the FOIA. *See* 5 U.S.C. § 552(a)(4)(A)(iii) (defining a representative of the news media as an entity that “gathers information of potential interest to a segment of the public” and “uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience”); *accord Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 880 F.2d 1381, 1397 (D.C. Cir. 1989). 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” within the meaning of the FOIA. *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).

### EXPEDITED PROCESSING

IRAP requests expedited treatment for this FOIA request pursuant to 5 U.S.C. § 552(a)(6)(E). As noted above, IRAP is a “representative of the news media,” 5 U.S.C. § 552(a)(4)(A)(iii), and there is an “urgency to inform the public concerning the actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II). In particular, IRAP requests these records as it advocates for legal pathways to safety for Afghan interpreters and others who served with U.S. forces. As reported most recently by the *Washington Post* and the *New York Times*, Afghan interpreters face serious, ongoing risk from the Taliban due to their service with U.S. Armed Forces, with over 300 cases of targeted killings since 2014.<sup>2</sup> The backlog to the Afghan Special Immigrant Visa (SIV) program, which provides these interpreters with a path to resettlement in the United States, currently exceeds 18,000 applicants;<sup>3</sup> many of those killed in recent years were stuck in the SIV application pipeline at their time of death.<sup>4</sup> Project Rabbit is intended to “expedite and streamline.... one of the most burdensome portions of the [SIV] process” but there is almost no public information on how it works and whether it is working, leading to confusion and speculation among impacted communities including Afghan allies, military veterans, and other advocates.<sup>5</sup>

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<sup>2</sup> Anne Gearan, “Thousands of Afghans and Iraqis are under threat for helping Americans. Now they hope Biden will help them resettle in the United States,” *The Washington Post* (December 30, 2020), [https://www.washingtonpost.com/politics/biden-refugees-visas/2020/12/30/572c00fc-3e4f-11eb-9453-fc36ba051781\\_story.html](https://www.washingtonpost.com/politics/biden-refugees-visas/2020/12/30/572c00fc-3e4f-11eb-9453-fc36ba051781_story.html); Zolan Kanno-Youngs, “Refugees Who Assisted the U.S. Military Find the Door to America Slammed Shut,” *The New York Times* (October 18, 2020), <https://www.nytimes.com/2020/10/18/us/politics/trump-refugees-iraq-afghanistan.html>.

<sup>3</sup> Department of State & Department of Homeland Security, *Joint Department of State/Department of Homeland Security Report: Status of the Afghan Special Immigrant Visa Program*, (October 2021), <https://travel.state.gov/content/dam/visas/SIVs/Afghan-Public-Quarterly-Report-Q4-October-2021.pdf>.

<sup>4</sup> *See e.g.,* Janis Shinwari, Mariah Smith, Philip Caruso, Jason Gorey, Fritz Sleighter, Chris Karwacki, & James Miervaldi, *Over 300 Afghan Translators and Family Killed While Serving the U.S.*, Sept. 19, 2020, [https://realcleardefense.com/articles/2020/09/19/over\\_300\\_afghan\\_translators\\_and\\_family\\_killed\\_while\\_serving\\_the\\_us\\_577997.html](https://realcleardefense.com/articles/2020/09/19/over_300_afghan_translators_and_family_killed_while_serving_the_us_577997.html).

<sup>5</sup> *See, e.g.,* Afghan War News, *Project Rabbit and Afghan SIVs*, available at <https://afghanwarnews.info/taliban-victory-2021/project-rabbit.htm> (last visited March 13, 2022) (“It probably is asking too much for the Department of Defense to offer an explanation of why the input form was retired and to offer a course of action for those who wish

Given that the delays and denials of Afghan SIVs have been the subject of extensive media coverage - reflecting public interest in the issue - there is an urgency to inform the public about the records subject to this Request. 32 CFR § 286.8(e)(1)(i)(B). Alternatively, given the Defense Department's public acknowledgement of the "moral obligation to help those that have helped us over the past 20 years of our presence and work in Afghanistan," the risks those Afghans face from the Taliban, and the importance of the SIV pathway for potential relief, if the DOD component processing this request does not expedite the request based on 32 CFR § 286.8(e)(1)(i)(B), it should nonetheless expedite the request by finding that a "failure to obtain the requested information on an expedited basis could reasonably be expected to harm substantial humanitarian interests." 32 CFR § 286.8(e)(1)(ii)(B).

I hereby certify that the foregoing is true and correct to the best of my knowledge and belief.

### **FEE WAIVER**

IRAP seeks a full fee waiver on the grounds that disclosure of the requested records is in the public interest and 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 requestor." 5 U.S.C. § 552(a)(4)(A)(iii). IRAP has no commercial interest in the records requested, and this request aims at furthering public understanding of government conduct: specifically, to inform the public about how the Department of Defense's significant public benefit parole program works—a topic that the public knows very little about.

In any event, as discussed *supra*, IRAP is a "representative of the news media" and does not seek the records requested for commercial use. Accordingly, should the government assess fees for the processing of this request, those fees should be "limited to reasonable standard charges for document duplication" alone. 5 U.S.C. § 552(a)(4)(A)(ii)(II).

\* \* \*

Thank you for your consideration of this request. Please provide the requested records to:

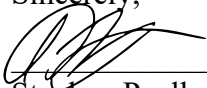
Stephen Poellot  
International Refugee Assistance Project  
One Battery Park Plaza, 4<sup>th</sup> floor  
New York, NY 10004  
spoellot@refugeerights.org

Please notify us in advance if the cost of producing the documents requested exceeds \$100.00. If you have any questions regarding this request, please contact Stephen Poellot at (516) 701-4666 or spoellot@refugeerights.org.

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to get their documents to Project Rabbit officials.... There is very little official mention of Project Rabbit and almost no information is provided to the public by the DoS or DoD on this topic.")

Sincerely,



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Stephen Poellot

*Legal Strategy Director*