



U.S. Department of Justice

United States Attorney  
Southern District of New York

86 Chambers Street  
New York, New York 10007

July 10, 2023

**By ECF**

The Honorable Katharine H. Parker  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

Re: *International Refugee Assistance Project, Inc. v. United States Citizenship and Immigration Services, et al.*, No. 23 Civ. 1236 (KHP)

Dear Judge Parker:

This Office represents Defendants United States Citizenship and Immigration Services (“USCIS”) and the Department of State (“State,” and together with USCIS, the “Government”) in the above-referenced Freedom of Information Act (“FOIA”) action. We write jointly with Plaintiff International Refugee Assistance Project, Inc. (“IRAP”) in response to the Court’s order to file a joint status report on the eighth day of each month, or if that date is a weekend or public holiday, then on the following Monday.

This matter concerns FOIA requests IRAP submitted to State and USCIS. The USCIS request seeks records for case management software systems used or accessed by USCIS to process a refugee for resettlement to the United States through the U.S. Refugee Admissions Program. The State request seeks the same records with respect to State (“Part One” of the State request), as well as anonymized data from individual refugee cases (“Part Two” of the State request).

USCIS identified 1,083<sup>1</sup> pages of records responsive to the USCIS request, and on July 7, 2023, it released 247 pages in their entirety and 797 pages in part, except those portions it determined are appropriately exempt pursuant to 5 U.S.C. § 552(b)(2), (b)(5), (b)(6), (b)(7)(C), and (b)(7)(E) of FOIA. It referred the remaining 39 pages to State for its direct response to IRAP. Accordingly, the July 7, 2023, release was USCIS’s first and final release of identified responsive records. IRAP is still reviewing the released records.

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<sup>1</sup> This page count is three pages lower than that reported in the June 8, 2023, joint status report, *see* Dkt. No. 30, because USCIS subsequently determined that these three pages were not responsive to the USCIS request.

With respect to Part One of the State request, State has identified approximately 3,145<sup>2</sup> pages of potentially responsive records for the case management systems—e.g., START and Refugee Processing Center Amazon Webservices (“RPC AWS”)—that it uses or accesses to process non-follow-to-join refugees. State has so far been unable to provide IRAP with information about the potentially responsive records that make up the bulk of these records, but it has provided information regarding the Excel spreadsheets that have been identified as responsive to Part One of the State request so that IRAP can determine whether it would like these spreadsheets processed.

In its initial search, State did not search for responsive records for the case management systems that it accesses or uses to process follow-to-join refugees—which may include Immigrant Visa Overseas (“IVO”) and Immigrant Visa Information System (“IVIS”)—due to a misunderstanding about the scope of IRAP’s request. State is in the process of tasking the Bureau that owns this information to search for these responsive records and will provide updates in future joint status reports. The 3,145 pages identified above as responsive to Part One of the State request do not include records regarding the case management systems State uses or accesses to process follow-to-join refugees.

State has proposed making a good faith effort to process an average of 450 pages per six weeks exclusive of external consultations<sup>3</sup> with respect to Part One of the State request. IRAP maintains that it cannot meaningfully evaluate this rate until it knows the total number of responsive records and receives a breakdown about the types of records identified. The parties have also reached an impasse regarding the deadline for completing external consultations and what, if any, information regarding external consultations should be provided in future joint status reports. IRAP has proposed that external consultants complete each consultation within six weeks of State seeking it and that State identify the number of pending external consultations and the page number, consultant, and consultation request date for each pending consultation in future joint status reports. State opposes providing this information and setting a deadline for external consultations, as it maintains that it has no control over what other agencies do in the FOIA consultation process, and it is not State’s practice to identify the agencies with which it consults at the time the consultations are made. The parties have agreed to not seek the Court’s assistance in resolving their dispute at this time, though they reserve the right to raise it for the Court in the future.

On June 30, 2023, State produced 397 pages in part, except those portions it determined are appropriately exempt pursuant to 5 U.S.C. § 552(b)(6) and (b)(7)(E) of FOIA. It withheld two pages in part under (b)(6) and (b)(7)(E), one page in part under (b)(7)(E), and 393 pages in full under (b)(7)(E). IRAP has communicated to State its concern that State is not releasing all

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<sup>2</sup> This page count is lower than the approximately 5,800 pages reported in the June 8, 2023, joint status report. *See* Dkt. No. 30. The approximately 5,800 number was the result of a counting error. The correct 3,145 number does not include the approximately six Excel spreadsheets that have been identified as potentially responsive.

<sup>3</sup> State sends pages to another governmental entity for an external consultation when that entity has equities in those pages.

reasonably segregable non-exempt material, and State has agreed to re-review the production. State did not send any pages from this first processing cycle for external consultation.

State has not yet queried its databases for records responsive to Part Two of the State request. State has expressed to IRAP its position that nearly all of the data fields requested by IRAP may be exempt from disclosure under the FOIA. Since the end of April, IRAP has asked State to identify its specific privacy and security concerns regarding Part Two of the request and break down the claimed exemption(s) by requested data field. It has only received a breakdown for the fields in subpart a. to date. State is working to provide more detailed information with respect to the remaining subparts of the request. The parties continue to confer regarding the possibility of State providing aggregate data not subject to the same exemptions in lieu of anonymized data from individual refugee cases. At the end of April, IRAP provided an illustrative example of desired aggregate data and requested information about the capabilities of State's analytical tools and reports and examples of aggregate data State is willing to provide. State is still reviewing the request. State, though, is considering facilitating a conversation between IRAP and its Bureau of Population, Refugees, and Migration in an attempt to resolve issues relating to Part Two of the State request consensually. If the parties are unable to reach a resolution with respect to the processing of Part Two of the State request, they will promptly alert the Court.

The parties thank the Court for its consideration of this joint status report and will file their next report by August 8, 2023.

Respectfully,

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