

NATIONAL IMMIGRANT JUSTICE CENTER

A HEARTLAND ALLIANCE PROGRAM

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, SW, Stop 5009
Washington, D.C. 20536-5009

Submission cc by email: ICE-FOIA@dhs.gov

Re: Freedom of Information Act Request

Dear ICE FOIA Officer:

This is a request for information under the Freedom of Information Act (“FOIA”), 5 U.S.C. §552.

On October 12, 2017, Immigration and Customs Enforcement (ICE) issued a Request for Information entitled “Immigration Detention Services – Multiple Areas of Responsibility,” identified by Solicitation Number MULTIAOR-RFI-00001. (The RFI is currently available online here:

https://www.fbo.gov/index?s=opportunity&mode=form&id=40a164d0787d7df00cebc917439d5e86&tab=core&_cview=0, last visited on March 6, 2018.) **We hereby request the names of all entities that provided responses to this RFI and the corresponding location(s) (city, county, state) of the proposed detention facility discussed therein.** This request includes responses to the RFI with regard to all four of the geographic regions included in the RFI (Chicago, Detroit, St. Paul, and Salt Lake City areas).

Please construe this as an ongoing FOIA request, so that any records that come within the possession of the agency prior to your final resolution to this FOIA request should also be considered within the scope of the request.

Please note that this submission constitutes a narrowed version of a request previously submitted on this issue on November 6, 2017. This request—limited to the names and referenced locations of responses—is not exempt from FOIA production pursuant to 7 USC § 522(b)(4) because it does not request “commercial or financial information.” Additionally, this request does not conflict with the Federal Procurement Integrity Act because it does not request the production of “contractor bid or proposal information” as defined at 48 CFR § 3.104-1.

Electronic versions of the requested documents on compact discs are preferred. Please produce with the records any metadata and load files, so that the records can be accessed, searched, and displayed in a manner comparable to an ICE user. If codes are employed, please also produce any documents in your possession explaining the codes employed, and what they signify.

If all or part of any of this request is denied, please specify the exemption(s) claimed for withholding each record. If some portion(s) of the requested records are determined to be exempt, please provide the remaining non-exempt portions. 5 U.S.C. §552(b). To the extent that materials are excised, please “black out” these materials, rather than “whiting out” or “cutting out” these materials. We reserve the right to appeal any decision(s) to withhold information and expect that you will list the address and office to which such an appeal may be directed. 5 U.S.C. §552(a)(6)(A)(i).

Fee Waivers & Reductions

In amending the FOIA statute, Congress intended for liberal construction of all fee waiver provisions for non-commercial requesters. *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 of noncommercial requesters.’”).

The Requester is entitled to a waiver of all costs because the information sought “is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requester’s] commercial interest.” 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. §§ 5.11(k). The Requester has a proven track-record of compiling and disseminating information to the public about government functions and activities. We intend to make your response – and an analysis thereof – publicly available on our website, www.immigrantjustice.org, and through other means of communication.

Maintenance and expansion of the immigration detention system is of significant public interest. This FOIA plays a critical role, as stakeholders continue to evaluate the implementation of the announced reforms. The Requester has undertaken this work in the public interest and not for any private commercial interest. The primary purpose of this FOIA request is to obtain information to further the public’s understanding and awareness of potential expansion of the immigration detention system. Legal service providers and the public at large have an interest in understanding where new detention facilities are likely to be opened or where expansion of existing facilities may occur.

The Requester is also entitled to a waiver of search-related fees as “a representative of the news media.” 5 U.S.C. § 552(a)(4)(A)(ii)(II); 6 C.F.R. § 5.11(d)(1). Under the 2007 amendments to FOIA, “a representative of the news media,” means “any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii). “News” means “information that is about current events or that would be of current interest to the public.” *Id.* Examples of news media entities includes “alternative media” that disseminate their publications for free “through telecommunications services,” i.e., the internet. *Id.* As noted above, NIJC has a track record of turning raw material into reports and other publications for distribution to the general public, which it does at no charge. You should therefore not charge NIJC any search-related costs for this FOIA request.

The documents subject to this request are not sought for any commercial use. Thus, in the alternative, we understand that no fee may be charged for the first two hours of search time or for the first 100 pages of duplication. 5 U.S.C. §552(a)(4)(A)(iv)(II); 6 C.F.R. § 5.11(d)(3). If you decline to waive these fees, and if these fees will exceed \$100.00, please notify us of the amount of these fees before fulfilling this request.

Please reply to this request within twenty working days, or as required by statute. 5 U.S.C. §552(a)(6)(A)(i). If you have any questions regarding this request, please feel free to email me at haltman@heartlandalliance.org or call me at 312-718-5021.

Sincerely,

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