

Exhibit 1



Chief FOIA Officer
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave SE
Washington, DC 20528-0655

Via Email

June 10, 2021

Re: Records Related to DHS Contracts for and Use of Identification Products and Technologies Provided by RELX & Thomson Reuters

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and its implementing regulations, 6 C.F.R. § 5.1 *et seq.*, Just Futures Law (“JFL”) seeks records from U.S. Department of Homeland Security (“DHS”) (herein “agency”) related to DHS contracts for and use of products and technologies facilitating location, identity matching, tracking, and monitoring of individuals based on, *inter alia*, bankruptcy records, consumer information, credit history, communications service use, and other commercial information. JFL specifically requests information and documents pertaining to DHS contracts for and use of products provided by two commercial information technology and data service providers, Thomson Reuters and the RELX Group (including contracts with RELX subsidiary LexisNexis).

We ask that you direct this request to all appropriate offices, components, divisions, and/or directorates within DHS, including Immigration and Customs Enforcement — including sub-offices such as Acquisition Management; Enforcement and Removal Operations (“ERO”) and its National Criminal Analysis and Targeting Center; and the Offices of Information Systems Security Officer — Customs and Border Protection (“CBP”), and Homeland Security Investigations (“HSI”).

Background

In recent years, DHS has made increasing use of data collection, sharing, and analysis in its immigration enforcement actions. As such, data surveillance presently plays a growing role in the agency’s approach to its mission. In order to access larger troves of information and enhance its capacity to sort and analyze intelligence, DHS has entered into agreements with private corporations specializing in data management and delivery. These contracts

are often sizeable, and pay for services regularly amounting to millions of dollars in agency spending for collaboration with data accumulation companies.¹

Despite these sizeable agreements, the full extent of the services DHS has procured and how those services are deployed by the agency remains opaque. While DHS has referred to the use of services delivered by RELX, LexisNexis, Thomson Reuters, and other companies specializing in data collection and delivery as “mission critical,”² it has not released details regarding what those services consist of. Furthermore, recently revealed information about the types of information DHS and its subagencies may be gleaned from data collection and delivery companies indicates that it may have serious implications for privacy considerations in consumer behavior, among other repercussions.³

Budget requests for Fiscal Year 2022 reflect the growing reliance on private data companies within DHS, although they provide limited details regarding their use and any associated safeguards.⁴ These dedicated — and growing — funding allocations to contracts with data corporations further indicate their importance to DHS operations and the concurrent need for public clarity as to how they are deployed.

This request seeks to fill gaps in public information regarding government expenditures and the involvement of private entities in surveillance and in immigration enforcement. The participation of private third-parties in these areas poses risks to the public where private parties may not be adequately regulated or subject to the same types of scrutiny as are government actors. Similar concerns have been raised in relation to the government's use of private contractors in the context of the criminal legal system, immigration detention, and military operations. Additionally, the public should have information about the extent to which data concerning their behaviors and activities as consumers and in other aspects of life are recorded, bought, and sold to the government by private data companies. The public should have the opportunity to object where their information is reviewed and used by the government without knowledge or consent of the individual. For

¹ See Sam Biddle, *LexisNexis to Provide Giant Database of Personal Information to ICE*, The Intercept (Apr. 2, 2021), available at <https://theintercept.com/2021/04/02/ice-database-surveillance-lexisnexis/>.

² See McKenzie Funk, *How ICE Picks Its Targets in the Surveillance Age*, New York Times Magazine (June 7, 2021), available at <https://www.nytimes.com/2019/10/02/magazine/ice-surveillance-deportation.html>.

³ See Drew Harwell, *ICE investigators used a private utility database covering millions to pursue immigration violations*, Washington Post (Feb. 26, 2021) available at <https://www.washingtonpost.com/technology/2021/02/26/ice-private-utility-data/>.

⁴ See Department of Homeland Security U.S. Immigration and Customs Enforcement Budget Overview, Fiscal Year 2022 Congressional Justification, 130 (listing Lexis/Nexis as among the \$3 million in contracts providing for assistance with “Fugitive Operations”) available at https://www.dhs.gov/sites/default/files/publications/u.s._immigration_and_customs_enforcement.pdf; Department of Homeland Office of the Secretary and Executive Management Budget Overview, Fiscal Year 2022 Congressional Justification, 90 (listing Lexis/Nexis subscription services among FY 2022 contracts and interagency agreements) available at https://www.dhs.gov/sites/default/files/publications/office_of_the_secretary_and_executive_management_0.pdf.

this reason, our request is critical to the public interest, and requires an expedient response from your agency.

Records Requested

- I. A list of all companies offering personal data collection, storage, analysis, and distribution with whom DHS has a contractual relationship, including, but not limited to, companies providing consumer data (contracts for services, payment histories, or personal identifying information tied to consumer transactions including bankruptcy records, consumer information, credit history, communications service use, and other commercial information), commercial data packaging and delivering open source (i.e., publicly available) information, and transportation identification or tracking (vehicles or common carriers).
- II. Updated executed agreements, dating from June 1, 2016, including contracts for service, memoranda of understanding, commitment to future contracts for service, and/or renewals of such documents for data provided by RELX (including subsidiary LexisNexis) and Thomson Reuters awarded by DHS. JFL requests the following two agreements specifically, in addition to all others fitting the criteria above:
 - a. The purchase order or contract entered into between DHS and LexisNexis Risk Solutions, Inc under Contract Award ID 70CMSD21C00000001 for use of the Law Enforcement Investigative Database Subscription;
 - b. The blanket purchase agreement entered into between Immigration and Customs Enforcement (ICE) and LexisNexis under Contract Award ID GS00F178DA70CMSD20A00000001 between LexisNexis Special Services and ICE for Credit Reporting Services.
- III. All communications, correspondence, or directives regarding DHS contractual agreements for data services provided by RELX (including subsidiary LexisNexis) or Thomson Reuters.
- IV. Records related to classification, use, sharing, and storage of consumer information or data accessed by DHS agencies or personnel originating from private data collection and distribution companies RELX (and its subsidiary LexisNexis) and Thomson Reuters.
 - a. Records describing the kinds of information accessed through RELX (and its subsidiary LexisNexis), and Thomson Reuters;
 - b. Records stating the purpose of use of information accessed through RELX (and its subsidiary LexisNexis), and Thomson Reuters;
 - c. Records stating any protocol required to access privileges, such as title, specialization, or other authorization, for use of products and information accessed through RELX (and its subsidiary LexisNexis), and Thomson Reuters;

- d. Records describing agency protocol for saving, storing, and sharing with other personnel information accessed through RELX (and its subsidiary LexisNexis), and Thomson Reuters;
 - e. Records related to how long the DHS retains, collects, or shares data provided by RELX (and its subsidiary LexisNexis) and/or Thomson Reuters;
 - f. Records related to whether DHS has a policy, plan, or protocol to destroy, delete or return data provided by RELX (and its subsidiary LexisNexis), Thomson Reuters, or other companies.
- V. Records related to classification, use, sharing, and storage of consumer information or data accessed by DHS agencies or personnel originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax.
- a. Records describing the kinds of information accessed by DHS originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax;
 - b. Records stating the purpose of use of information accessed by DHS originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax;
 - c. Records stating any protocol required to access privileges, such as title, specialization, or other authorization, for use of products and information originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax;
 - d. Records describing agency protocol for saving, storing, and sharing with other personnel information accessed by DHS originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax;
 - e. Records related to how long the DHS retains, collects, or shares data originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax;
 - f. Records related to whether DHS has a policy, plan, or protocol to destroy, delete or return data originating from credit reporting agencies, including, but not limited to Equifax, Experian, Transunion, or Datafax.
- VI. All records relating to how the RELX (and its subsidiary LexisNexis), or Thomson Reuters products or services function (or malfunctions), including manuals, instructions, training materials, e-mails, handouts, PowerPoint presentations, advertisements, or specification documents, that were created on or after September 1, 2017. Please include all records that describe validation, accuracy, reliability, and policy compliance of these technologies.

- VII. All records indicating the number of DHS personnel and/or individuals acting on behalf of DHS, including personnel and individuals working for or acting on behalf of HSI or ERO divisions, that possess accounts that provide access to any Thomson Reuters or RELX (and its subsidiary LexisNexis) products, services, or technologies.
 - a. Specifically, records related to contractor Thundercat as they pertain to use, analysis, and/or dissemination of these records.
- VIII. All records indicating the number of queries initiated by ICE, CBP and DHS personnel utilizing Thomson Reuters or RELX (and its subsidiary LexisNexis) products or services on or after September 1, 2017, including but not limited to daily, weekly, monthly, and/or annual datasets, logs, and/or reports.
- IX. All records indicating the number of warrant applications, warrants, arrests and/or prosecutions associated with a query utilizing Thomson Reuters or RELX (and its subsidiary LexisNexis) products or services conducted on or after September 1, 2017, including warrant applications, warrants, arrests or prosecutions where such a query was not cited as a basis for a warrant application, the issuance of a warrant, an arrest, or a prosecution.
- X. National Crime Analysis and Targeting Center (“NCATC”):
 - a. Records describing any contractual provision related to sub-agency access to or use of products and information provided by private data vendors; including RELX (and its subsidiary LexisNexis), Thomson Reuters, or other companies by the National Crime Analysis and Targeting Center (“NCATC”);
 - b. Records describing sub-agency instructions and/or protocols for use of products and information accessed through private data vendors including RELX (and its subsidiary LexisNexis), Thomson Reuters, or other companies by NCATC personnel.
- XI. Pacific Enforcement Response Center (“PERC”):
 - a. Any records describing sub-agency instructions and/or protocols for use of products and information accessed through private data vendors including RELX (and its subsidiary LexisNexis), Thomson Reuters, or other companies by PERC personnel;
 - b. Records describing sub-agency instructions and/or protocols for use of products and information accessed through private data vendors including RELX (and its subsidiary LexisNexis), Thomson Reuters, or other companies by PERC personnel.

Requester

Just Futures Law (JFL) is a transformational immigration lawyering organization that provides legal support for grassroots organizations engaged in making critical interventions in the United States' deportation and detention systems and policies. JFL staff maintains close relationships with organizations and activists who seek to understand the scope and range of government surveillance and criminalization. JFL staff have decades of experience in providing expert legal advice, written legal resources, and training for immigration attorneys and criminal defense attorneys on the immigration consequences of the criminal legal system. JFL has a significant interest in the administration of government surveillance and data collection. JFL has already published a number of reports on government surveillance including reports around surveillance under COVID-19 and ICE's EDDIE program.⁵

Request for Fee Waiver

Requester further seeks a limitation or waiver of processing (search and review) fees pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) ("fees shall be limited to reasonable standard charges for document duplication when records are not sought for commercial use and the request is made by ... a representative of the news media . . ."); 5 U.S.C. § 552(a)(4)(A)(iii) ("Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it 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."). *See also* 6 C.F.R. § 5.11(d)(1). That provision should be "liberally construed in favor of waivers for noncommercial requestors." *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003).

1. *Release of the requested records is in the public interest.*

The records requested will contribute significantly to public understanding of the government's operations or activities. Under 6 C.F.R. § 5.11(k)(2), the following factors are to be considered in determining whether a disclosure is in the public interest: (i) whether the subject of the requested records concerns "the operations or activities of the government"; (ii) whether the disclosure is "likely to contribute" to an understanding of government operations or activities; (iii) whether disclosure of the requested information will contribute to "public understanding," that is, "the understanding of a reasonably broad audience of persons interested in the subject"; and (iv) whether disclosure is likely to contribute "significantly" to public understanding of government operations or activities. *See* 6 C.F.R. § 5.11(k)(2)(i)– (iv).

Each of these considerations is satisfied here. First, the records requested pertain directly to "operations or activities" of the federal government: specifically, how the agency

⁵ *See, e.g.* Just Futures Law, *ICE's EDDIE Program: How Ice Uses Biometric Scanner Tech to Ramp Up Raids* (Nov, 2020), available at <https://justfutureslaw.org/wp-content/uploads/2020/11/EDDIE-report-PDF-revised-final.pdf>.

incorporates services from companies specializing in data-aggregation and delivery into its surveillance and enforcement activities, especially in its interactions with immigrants and immigrant communities. Second, this request is “likely to contribute” significantly to a public understanding of government operations or activities, specifically by helping the public understand the scope, purpose, and costs of DHS contracts for products and technologies facilitating location, identity matching, tracking, and monitoring of individuals.

Third, disclosure of the requested information will contribute to “the understanding of a reasonably broad audience of persons interested in the subject.” JFL will publish responsive records and their analysis through reports, press releases, online posts, newsletters or other media to raise public awareness of the agency’s use of data collection, sharing, and analysis in its immigration enforcement actions. Moreover, JFL will also use the records to inform know-your-rights presentations and trainings for the public and attorneys. Using records produced from prior FOIA requests, JFL has previously published reports, facts sheets, and community resources on federal and local government agency use of data collection, sharing, and analysis, which has reached a broad audience and garnered significant public attention.⁶

Finally, disclosure will contribute “significantly” to the public understanding of the agency’s increasing use of private data in its immigration enforcement actions. The requested records will contribute to the public debate over the federal government’s collection of private data for the purpose of surveillance, location, and immigration enforcement and its implications on data privacy, security, and civil liberties. The public has significant interest in understanding the extent to which private data collection and delivery companies are profiting from the scraping and sale of consumer and other public data, yet many questions remain unanswered about these technologies and their impact on the public.

Based on the information above, Requestor has established, “with reasonable specificity[,] that [their] request pertains to operations of the government,” and “the informative value of a request depends not on there being certainty of what the documents will reveal, but rather on the requesting party having explained with reasonable specificity how those documents would increase public knowledge of the functions of the government.” *Citizens for Responsibility and Ethics in Washington v. Department of Health and Human Services*, 481 F. Supp. 2d 99, 107–109 (D.D.C. 2006).

2. *Disclosure of the information requested is not in Requesters’ commercial interest.*

⁶ See, e.g., *Take Action Now: Fight for Immigrant Justice*, The Nation (May 18, 2020), <https://www.thenation.com/article/activism/take-action-now-fight-for-immigrant-justice/> (referencing the JFL advisory “Surveillance During COVID-19 to learn how governments and companies arousing the health crisis to expand surveillance”); Frank Bajak, *Report: Mobile fingerprinting a core tool in US deportations*, Associated Press (Nov. 23, 2020), <https://apnews.com/article/donald-trump-freedom-of-information-freedom-of-information-act-lawsuits-immigration-0fac264dc20da65c3e5924174f9db5aa> (referencing the Just Futures Law report “Meet EDDIE: Biometric Tech Used against Immigrant Communities”); JFL, *FACTSHEET: Whitehouse Office of Science and Technology Policy Tech Surveillance Response to COVID-19* (July 28, 2021), <https://justfutureslaw.org/wp-content/uploads/2020/07/OSTP.2020-07-28.FACTSHEET.pdf>.

Disclosure of the information requested is not in the commercial interest of JFL. 6 C.F.R. § 5.11(b). Any information obtained as a result of this FOIA request will be made available to the public at no cost.

Moreover, JFL is routinely granted fee waivers by government agencies, including FOIA Requests CBP-2020-060295 and CBP-2021-008288.

For these reasons, this request for a full fee waiver should be granted. Alternatively, if the full fee waiver is not granted, Requesters seek all applicable reductions in fees. Further, if no fee waiver is granted and the anticipated costs associated with this request exceed \$25.00, please notify requesters to obtain consent and provide an estimate of the additional fees.

Request for Expedited Processing

Requesters are entitled to expedited processing of this request under the FOIA statute and implementing regulations, where there is a “compelling need” for the information requested. 5 U.S.C. § 552(a)(6)(E); 6 C.F.R. § 5.5(d)(ii). A “compelling need” is established when there exists an “urgency to inform the public about an actual or alleged Federal Government activity,” and when the requester is a “person primarily engaged in disseminating information,” 6 C.F.R. § 5.5(d)(ii).

1. Requesters are organizations primarily engaged in disseminating information to the public and there is an urgent need to inform the public about actual or alleged government activity.

Dissemination of information to the public about actual or alleged government activity is a critical and substantial component of the Requester’s mission and work. The records requested are urgently needed to inform the public about actual or alleged government activity, specifically, federal government’s use of powerful technologies to collect vast amounts of personal information. JFL represents and works with communities whose members are being arrested, detained, and deported every day, in part on the basis of information collected, analyzed and provided to ICE/DHS by information technology and data services companies. Moreover, recent budget proposals indicate that funding for the requested contracts and related records is slated to increase in the coming year. Additional information is urgently needed to allow the public to fully engage with elected representatives concerning the proposed public expenditure in an informed fashion as budget negotiations for Fiscal Year 2022 are finalized.

Conclusion

Thank you for your consideration of this request. Requesters certify that the above information is true and correct to the best of their knowledge pursuant to 6 C.F.R. § 5.5(e)(3). We look forward to your response to our request for expedited processing within ten (10) business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Notwithstanding our request for expedited processing, we alternatively look forward to your reply to this request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(I). If the Request is denied in whole or in part, we ask that you justify all withholdings by reference

to specific exemptions to the FOIA. We also ask that you release all segregable portions of otherwise exempt material.

We request that the records be made available electronically, by e-mail attachment if available or CD-ROM if not.

For questions regarding this request contact Kevin Herrera at kevin@justfutureslaw.org. Thank you for your consideration.



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