

Exhibit B

FOIA Request



International Refugee
Assistance Project

July 8, 2019

Via Fax and Certified Mail

Office of Information Programs and Services (IPS)
U.S. Department of State
State Annex 2 (SA-2)
515 22nd Street, NW.
Washington, D.C. 20522-8100
Fax: (202) 261-8579

Re: Freedom of Information Request Regarding Closure of Refugee
Resettlement Agencies, State and Local Officials' Authority to Bar
Refugee Resettlement in their Jurisdictions, and Assimilation
Requirements
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 resettlement. The Request is made pursuant to 5 U.S.C. § 552 *et seq.*, and its relevant implementing regulations, 22 C.F.R. § 171 *et seq.*

BACKGROUND

This FOIA request concerns three policy changes that have been announced by the Trump Administration with regard to refugee resettlement, but for which plans for implementation have not been made public.

First, Executive Order 13,767, issued on Jan. 27, 2017, Section 5(g), mandated that, “to the extent permitted by law and as practicable, State and local jurisdictions be granted a role in the process of determining the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees.” This language was repeated in Section 6(d) of Executive Order 13,780, issued on March 6, 2017. The authority of state and local officials in

refugee resettlement has been a subject of frequent, ongoing, and public debate, whether and how this policy has been implemented is not a matter of public record.

Second, the Proposed Refugee Admissions for FY18 emphasized assimilation, noting that “PRM, DHS/USCIS, and ORR are working to enhance efforts to promote refugee and asylee assimilation and integration” and noting a new emphasis on resettling refugees based on assimilation criteria (p. 52). While this announcement generated significant media interest, no further clarification has been forthcoming from the Administration as to how such criteria would be developed and applied.

Finally, a funding notice for FY19 indicated that the number of federal refugee resettlement agencies would be reduced from nine federal contractors.¹

Though each of these changes has been announced as a matter of policy, there have been no further public discussions of the implementation of these changes and it is unclear whether these are active policy goals of the Trump Administration or what impact on the refugee admissions program these changes are assessed to have.

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 on or after Jan. 20, 2017 by the the Bureau of Population, Refugees, and Migration; the Office of the Legal Adviser; and/or the Policy Planning Staff related to one or more of the following topics:

1. The role of state and local jurisdictions in decisions related to the resettlement in their jurisdictions of refugees.

¹ State Department, Bureau of Population, Refugees, and Migration, “FY 2019 Notice of Funding Opportunity for Reception and Placement Program,” March 15, 2018 (“The Bureau currently funds nine recipient agencies. In FY 2019, the Bureau expects to fund a smaller number of recipient agencies . . .”).

2. Applying criteria related to assimilation in refugee resettlement, or otherwise amending existing policies that select refugees for resettlement based on vulnerability criteria.
3. Plans to reduce the number of federal refugee resettlement agencies from nine federal contractors.
4. All records related to the processing of this Request. *See* 22 C.F.R. § 171.11(j).

Definition: 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, Gchat, 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. This includes any email accounts and cell phones used by employees and former employees for agency business, whether they are personal or agency systems. For each relevant email account identified, all storage areas are included in this Request, including, but not limited to, the inbox “folder” (and all subfolders therein), sent folder, deleted folder, outbox folder, and all relevant archive files.

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.

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); 22 C.F.R. § 171.11(k). Please produce emails in native format as well as in searchable PDF format, 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 there is 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,² and maintains “Know Your Rights” and other educational materials on its website.³ It routinely releases press releases and publishes a blog on its work and on issues relating to refugee policy.⁴ 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,⁵ and a Twitter account with over 15,000 followers.⁶

Second, there is an urgency to inform the public about the records subject to this Request. Each of these subjects—state and local government’s influence of refugee resettlement,⁷

² *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/>.

³ *See* Know Your Rights, <https://refugeerights.org/know-your-rights/> (last visited Sep. 8, 2017).

⁴ *See* Press Room, <https://refugeerights.org/press-room/> (last visited Sep. 8, 2017); Blog, <https://refugeerights.org/blog1/> (last visited Sep. 8, 2017).

⁵ *See* IRAP, Facebook, <https://www.facebook.com/RefugeeAssist/>.

⁶ *See* IRAP (@RefugeeAssist), Twitter, <https://twitter.com/RefugeeAssist>.

⁷ Brian Bakst, “GOP governor candidate Johnson calls for refugee halt,” Capitol View, July 12, 2018, <https://blogs.mprnews.org/capitol-view/2018/07/gop-governor-candidate-johnson-calls-for-refugee-halt/>; Erin Beck, Committee abruptly adjourns during refugee, sanctuary city discussion,” The Register-Herald, Feb. 6, 2019, https://www.register-herald.com/news/state_region/committee-abruptly-adjourns-during-refugee-sanctuary-city-discussion/article_4bc4c4db-89a0-515f-9ae5-4bf611a502d7.html; Rachel M. Cohen, “Maryland’s GOP Governor Recently Opposed Trump on Immigration, but his Record Tells a Different Story,” The Intercept, July 12, 2018, <https://theintercept.com/2018/07/12/larry-hogan-maryland-trump-ben-jealous/>; Associated Press, “Lawyers for Tennessee Lawmakers, Feds Clash in Refugee Case,” March 20, 2019, <https://wreg.com/2019/03/20/lawyers-for-tennessee-lawmakers-feds-clash-in-refugee-case/>.

assimilation requirements,⁸ and reduction in the number of resettlement agencies⁹—has been the subject of extensive media coverage, reflecting public interest in the issue. Despite these policy change announcements, ongoing discussion and state legislation about refugee resettlement and integration, and widespread interest in refugee resettlement, no information is public about how these policy proposals are being implemented by the Trump Administration since the proposals were made in 2018.

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).

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).

⁸ Linley Sanders, “Trump Only Wants Refugees who can ‘Successfully Assimilate’ and ‘Contribute’ to the U.S.,” *Newsweek*, Sept. 28, 2017, <https://www.newsweek.com/trump-wants-refugees-who-can-successfully-assimilate-673684>; Mythili Sampathkumar, “Trump administration launches bid to give priority to refugees who can ‘assimilate,’” *Independent*, Sept. 28, 2017, <https://www.independent.co.uk/news/world/americas/us-politics/trump-immigration-refugees-assimilation-test-latest-a7972986.html>; Alan Neuhauser, “Trump May Want Refugees Who Can ‘Assimilate.’ What Does That Mean?” *U.S. News and World Report*, Oct. 4, 2017, <https://www.usnews.com/news/national-news/articles/2017-10-04/trump-may-want-refugees-who-can-assimilate-what-does-that-mean>.

⁹ Scott Bixby, “The New Collateral Damage in Trump’s War on Refugees,” *Daily Beast*, Sept. 24, 2018, <https://www.thedailybeast.com/the-new-collateral-damage-in-trumps-war-on-refugees>; Saul Gonzalez, “Limits on refugee resettlement lead to agency closures in Los Angeles,” *PRI*, Dec. 10, 2018, <https://www.pri.org/stories/2018-12-10/limits-asylum-seekers-leads-agency-closures-los-angeles>; Mica Rosenberg, “Exclusive: Dozens of refugee resettlement offices to close as Trump downsizes program,” *Reuters*, Feb. 14, 2018, <https://www.reuters.com/article/us-usa-immigration-refugees-exclusive/exclusive-dozens-of-refugee-resettlement-offices-to-close-as-trump-downsizes-program-idUSKCN1FY1EJ>; Priscilla Alvarez, “America’s System for Resettling Refugees Is Collapsing,” *The Atlantic*, Sept. 9, 2018, <https://www.theatlantic.com/politics/archive/2018/09/refugee-admissions-trump/569641/>.

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 how these policy proposals announced in Executive Order 13,767 and 13,780 and the Proposed Refugee Admissions for FY19 are being implemented in practice. 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, there has been little reporting on how the Trump Administration has implemented or attempted to implement these policy changes or how any such changes have impacted refugee resettlement.

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:

Betsy Fisher
International Refugee Assistance Project
One Battery Park Plaza, 4th floor
New York, New York 10004
bfisher@refugeerights.org

As provided in 22 C.F.R. § 171.11 (d), 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 Betsy Fisher at (516)701-4262 or bfisher@refugeerights.org. Thank you in advance for your timely cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Betsy Fisher", is positioned below the "Sincerely," text.