

EXHIBIT

A

COVINGTON

BEIJING BRUSSELS DUBAI FRANKFURT JOHANNESBURG
LONDON LOS ANGELES NEW YORK PALO ALTO
SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 6000

By Electronic Mail

June 24, 2019

U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010
uscis.foia@uscis.dhs.gov

Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, D.C. 20528-0655
foia@hq.dhs.gov

Re: FREEDOM OF INFORMATION ACT REQUEST

Dear Sir or Madam:

On behalf of our client, Justice Action Center (“JAC”), and pursuant to the provisions of the Freedom of Information Act (“FOIA”) 5 U.S.C. § 552 et seq., as amended, and the applicable agency regulations, I request copies of the records identified in the numbered paragraphs below.

BACKGROUND

Since January 2018, several Deferred Action for Childhood Arrivals (“DACA”) program recipients have reported that their DACA renewal applications are not being reviewed in the order in which they are received by U.S. Citizenship and Immigration Services (“USCIS”). Instead, their applications are placed in a queue and are not reviewed until within 150 days of the expiration of their current approval period (“150-day queue”). This practice deviates from USCIS’s established practice of reviewing DACA renewal applications in the order in which they are received.¹

RECORDS REQUEST

- (1) All reports, including data in the “Echo” database, showing any of the following: (a) DACA renewal processing times; (b) the number of DACA renewal requests submitted more than 150 days before expiration of their current status since September 5, 2017;

¹ Prior to January 2018, if an application was reviewed and approved prior to the original grant of deferral’s expiration date, the renewal period would begin on the date that the renewal was approved rather than on the original date that the grant of deferred action was set to expire; this effectively truncated the original two-year deferral period and started a new two-year deferral period from the date of approval. See USCIS, Frequently Asked Questions, at § III, Q50 (March 8, 2018), <https://www.uscis.gov/archive/frequently-asked-questions>.

COVINGTON

U.S. Citizenship and Immigration Services
Department of Homeland Security
June 24, 2019
Page 2

- (c) the dates on which the DACA grants of deferral referred to in request (1)(b) are/were scheduled to expire; (d) if applicable, the dates on which the DACA grants of deferral referred to in request (1)(b) were reviewed; and (e) if applicable, the dates on which those applications were approved.
- (2) All reports, including data in the “Echo” database, showing percent change in Requests For Evidence issued on DACA renewals since September 5, 2017.
- (3) All policies, guidance, or correspondence related to a 150-day queue or related to deferring review of DACA renewal requests rather than reviewing them in the order in which they are received.
- (4) All policies, guidance, or correspondence issued since September 5, 2017 related to the processing of DACA renewals.
- (5) All documents and correspondence discussing the legality of proposals to implement a 150-day queue, otherwise discussing a 150-day queue, or otherwise discussing the deferral of review of DACA renewal requests rather than reviewing them in the order in which they are received.
- (6) All documents, correspondence, and statistical analyses discussing the impact of proposals to: (a) hold DACA renewal requests for review until within 150 days of their expiration or (b) defer review of DACA renewal requests rather than reviewing them in the order in which they are received.

FORMAT AND PRODUCTION REQUESTS

We request that responsive documents are produced *in their entirety*, including all attachments, enclosures, and exhibits. If it is determined that a document contains material or information that falls within a statutory exemption to mandatory disclosure, we ask that such material or information be reviewed for possible discretionary disclosure, consistent with the presumption of openness codified in the Freedom of Information Act Improvement Act of 2016. Pub. L. 114-185.

The burden is on the government to provide a determination within 20 working days. Given the focused nature of the request, we do not expect your office to have any difficulty meeting the statutory deadlines. But in the event your office will be unable to meet the deadline, we are willing to discuss an appropriate schedule for rolling productions. To the extent you have any questions after reviewing our request, do not hesitate to contact undersigned counsel.

FEE WAIVER REQUEST

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), JAC requests a fee waiver. JAC is a non-profit corporation, 501(c)(3) application pending, dedicated to advancing the civil and human rights of immigrants in the United States through a combination of impact litigation, communications and digital strategies. It provides related support to select partner non-profit organizations that have immigrant members or that provide direct legal services to immigrant communities. JAC

COVINGTON

U.S. Citizenship and Immigration Services
Department of Homeland Security
June 24, 2019
Page 3

employs an innovative model that advances the rights of immigrant communities by connecting cutting-edge impact litigation and compelling narrative and communications content.

JAC has developed a multi-pronged approach to use information obtained through FOIA requests to educate the public and further the aforementioned goals. First, JAC uses the expertise and experience of its own staff to target members of the public most affected by the information. For example, it advises DACA recipients on their rights and obligations and will use its own social media and website resources to publish the information. Second, JAC partners with well-established immigration advocacy groups to ensure dissemination to key communities, such as FWD.us and United We Dream. Finally, JAC works with newspaper and broadcast media to report on the released information. Using this same multi-pronged approach, JAC will educate the public with the information it obtains through this FOIA request.

According to the applicable agency regulations, fees shall be waived or reduced when it is determined, based upon the submission of the requester, that the information 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. 5 C.F.R. §5.11(k)(1) (DHS FOIA regulations on fee waivers). Thus, USCIS must waive or reduce the JAC's fees because it has no commercial interest in the requested information and, instead, requests this information to educate the public at large regarding the Department of Homeland Security's operations and activities to share information about the funding of immigration policy and enforcement activities with other organizations throughout the country. *See id.*

This firm and the undersigned will be responsible for the reasonable cost of locating and reproducing the requested documents to the extent required by your regulations and not otherwise waived. If such cost will exceed \$150, please contact us before incurring it.

Please direct all correspondence related to this request to:

Leah Saris
Covington & Burling LLP
One CityCenter
850 Tenth Street NW
Washington, D.C. 20001
lsaris@cov.com
202-662-5241

Thank you in advance for your assistance with this matter.

Respectfully submitted,

Leah Saris

cc: Karen Tumlin