

EXHIBIT K



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December 3, 2019

USCIS FOIA/PA Appeals Office
Freedom of Information Act Appeal
P.O. Box 648010
Lee's Summit, MO 64064-8010

**Re: Freedom of Information Act Appeal
USCIS - COW2019501121**

Dear FOIA Appeals Officer,

This letter constitutes an administrative appeal under the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552, and is submitted on behalf of the Catholic Legal Immigration Network, Inc. (CLINIC), Alianza Americas, and National TPS Alliance (“Requestors”).

On August 12, 2019 Requestors submitted a FOIA request to the United States Citizenship and Immigration Services (USCIS) for certain records related to the Temporary Protected Status program. *See* Exhibit A.

By letter dated August 28, 2019, USCIS acknowledged receipt of the request on August 12, 2019. *See* Exhibit B. As of December 2, the agency’s online FOIA status tracking system (<https://first.uscis.gov/#/check-status>) indicates that the “estimated completion date” of this FOIA request is April 05, 2020. *See* Exhibit C. The agency has not sent Requestors any further information.

As more than 30 business days have elapsed since Requestors filed the FOIA request, they now appeal USCIS’s constructive denial of the request based on its failure to make a determination within the statutory deadline.

After a party submits a FOIA request, the agency must make a “determination” with regard to a request within 20 business days of its receipt. 5 U.S.C. § 552(a)(6)(A)(i). To satisfy this requirement a “‘determination’ under Section 552(a)(6)(A)(i) must be more than just an initial statement that the agency will generally comply with a FOIA request.” *CREW v. FEC*, 711 F.3d 180, 188 (2013). Specifically, an agency “must at least: (i) gather and review the documents; (ii) determine and communicate the scope of the documents it intends to produce and withhold, and

the reasons for withholding any documents; and (iii) inform the requester that it can appeal whatever portion of the ‘determination’ is adverse.” *Id.* In unusual circumstances, this deadline may be extended for a maximum of 10 additional business days. 5 U.S.C. § 552(a)(6)(B)(i). Although 114 days have passed since the request was submitted, USCIS has not made any determination regarding Requestors’ FOIA request.

When the agency fails to comply with the response times required by statute, requestors may deem the agency’s delay a constructive denial of the request and appeal the request. *See* 5 U.S.C. § 552(a)(6)(C)(i) (providing that a requestor “shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions”); 6 C.F.R. § 5.9 (providing for administrative appeals of “an adverse determination denying [a FOIA] request”).

USCIS has failed to comply with Requestors’ FOIA request within the thirty business days provided under the FOIA statute for responses in unusual circumstances. Accordingly, Requestors submit this letter to administratively appeal the unlawful constructive denial of their request.

Thank you in advance for your response to this appeal within twenty working days, as FOIA requires. *See* 5 U.S.C. § 552(a)(6)(A)(ii). If you have any questions, please contact me at khaled@nipnl.org or 617.227.9727 x3

Sincerely,

Khaled Alrabe
National Immigration Project
of the National Lawyers Guild

Encl.:

Exhibit A: August 12, 2019, FOIA request.

Exhibit B: August 28, 2019, USCIS letter acknowledging receipt of FOIA Request.

Exhibit C: December 2, 2019, USCIS FOIA Tracking System estimated completion date.