

NATIONAL IMMIGRANT JUSTICE CENTER

A HEARTLAND ALLIANCE PROGRAM

May 2, 2016

Via email to ICE-FOIA@dhs.gov

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

Dear FOIA Officer:

Please note that this is an amended request for information under the Freedom of Information Act (“FOIA”), 5 U.S.C. §552, and supersedes the request filed by our office on April 26, 2016. We request the following records in the custody or control of the Department of Homeland Security (DHS), and its relevant subsidiary agencies or departments, including Immigration & Customs Enforcement (ICE):

1. All inspections and reports, including attachments, work plans, Form G-324A, and any other materials generated pursuant to ICE’s Enforcement and Removal Office (ERO) inspections for all facilities housing more than 50 noncitizens in ICE custody for FY2013 through FY2016;
2. All inspections and reports generated pursuant to Organizational Self-Review Assessments (ORSAs) for all facilities housing less than 50 noncitizens in ICE custody for FY2013 through FY2016;
3. For facilities that are subject to both ERO and ORSA inspections due to fluctuating populations, please provide both ERO and ORSA reports, inspections and all other materials generated pursuant to both types of inspections for any given facility for FY2013 through FY2016.

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

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 a DHS or ICE user, as applicable. 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 information that Requestor National Immigrant Justice Center (NIJC) seeks “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 [NIJC’s] commercial interest.” 5 U.S.C. § 552(a)(4)(A)(iii); 6 C.F.R. §§ 5.11(k). Thus, NIJC is entitled to a waiver of all fees associated with this request. NIJC has a proven track-record of compiling and disseminating information to the public about DHS detention contracting and inspections processes and not for any private commercial interest, *see e.g.*, “NIJC Freedom of Information Act Litigation Reveals Systemic Lack of Accountability in Immigration Detention Contracting,” August 2015, available at <http://immigrantjustice.org/immigration-detention-transparency-and-human-rights-project-august-2015-report>, and “Lives in Peril: How Ineffective Inspections Make ICE Complicit in Detention Center Abuse,” October 2015, available at <http://immigrantjustice.org/publications/TransparencyandHumanRightsOctober2015>. NIJC intends to make your response – and an analysis thereof – publicly available on its website. This FOIA request seeks to supplement limited and outdated information that DHS provided in a prior FOIA request by NIJC, *see* 2012FOIA03030, to further the public’s knowledge and understanding of ICE contracts with and inspections of facilities that house individuals in its custody. Access to this information is required for the public to meaningfully understand DHS expenditures and policies with regard to the detention of noncitizens in the U.S. This objective is fully covered by the FOIA statute’s waiver of fees provision.

In the alternative and for similar reasons, subject to the provisions of 5 U.S.C. § 552(a)(4), NIJC’s request would qualify for substantially reduced fees. If you decline to waive the fees associated with this request, and if these fees will exceed \$100.00, please notify us of the amount of these fees before fulfilling this request. NIJC reserves the right to challenge the denial of a fee waiver. 5 U.S.C. § 552(a)(4)(A)(vii).

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 cvalenzuela@heartlandalliance.org or call me at 312-660-1308.

Sincerely,

s/ Claudia Valenzuela
Claudia Valenzuela
National Immigrant Justice Center
208 S. LaSalle Street, Suite 1300
Chicago, IL 60604
(t): 312-660-1308
Email: cvalenzuela@heartlandalliance.org