



March 17, 2020

Office of the General Counsel
Attn: FOIA Service Center
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 1903
Falls Church, VA 22041

Via email: EOIR.FOIARequests@usdoj.gov

Re: Freedom of Information Act Request

Dear FOIA Officer:

The American Immigration Council (Council), the American Immigration Lawyers Association (AILA), the National Immigrant Justice Center (NIJC) and the Chicago Chapter of the American Immigration Lawyers Association (Chicago AILA) (“Requesters”) submit the following Freedom of Information Act (FOIA) request for records regarding immigration courts, including immigration adjudication centers. In accordance with 5 U.S.C. § 552(a)(6)(A)(i), we expect a response to this request within 20 working days, unless otherwise permitted by statute.

1. REQUEST FOR INFORMATION

For the period between January 1, 2018 to the present:

Current immigration courts/adjudication centers

- Records, list, chart or other compilation of all current operational immigration courts and immigration adjudication centers (IAC)s,¹ with the city and state where each is located, and the judges assigned to each court or IAC;²
- Records describing the operational purposes of an IAC;
- Records describing all procedures to be followed by judges, noncitizens and attorneys in cases assigned to and heard by judges via an IAC;

¹ At each point in this request, where the words “immigration court” or “immigration adjudication centers” are used, please construe this to mean any facility where non-appellate cases are adjudicated or decided, regardless of the name or moniker used by the agency to describe such facility.

² Requesters understand that the Department of Justice (DOJ) lists immigration courts and adjudication centers on its website. See Department of Justice, Executive Office for Immigration Review (EOIR) Court Listing, <https://www.justice.gov/eoir/immigration-court-administrative-control-list> (last visited March 16, 2020). However, Requesters would note that the list may not be complete or updated.

- General Services Administration (GSA) contracts for current IACs.

Proposed immigration courts/adjudication centers:

- Records, list, excel spreadsheet or other compilation of proposed immigration courts and IAC sites;
- All GSA requests for information (RFIs) that are currently pending, or were pending within the past six months, for immigration courts, including IACs;
- All pending GSA requests for proposals (RFPs) that are currently pending, or were pending within the past six months, for immigration courts, including IACs;
- All requests for solicitation submitted to the GSA that are pending, or were pending within the past six months, for immigration courts, including IACs.

The term “records” in this request includes, but is not limited to: communications, correspondence, directives, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, standards, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training materials, and studies, including records kept in written form, or electronic format on computers and/or other electronic storage devices, electronic communications and/or videotapes, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations.

2. FEE WAIVER REQUEST

Requesters seek a fee waiver because the information they seek 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 [requesters]....” 5 U.S.C. § 552(a)(4)(A)(iii).

A. Disclosure Will Contribute to Public Understanding of EOIR Operations

EOIR administers the nation’s immigration courts and is tasked with implementing decision-making in individual removal proceedings.³ A full accounting of all existing immigration courts, including IACs, as well as their location and governing procedures will further the public’s understanding of EOIR operations and ensure due process safeguards for individuals appearing before these courts. Information regarding proposed courts and IACs and where they will be located is critical and of interest to the public, as it provides important insight into a complex and rapidly changing immigration court system. This information is also useful to those who seek to provide legal services and advocate on behalf of individuals appearing before the immigration courts.

³ See Department of Justice, Executive Office for Immigration Review (EOIR), “*Fact Sheet: Executive Office for Immigration Review: An Agency Guide*,” December 2017, https://www.justice.gov/eoir/page/file/eoir_an_agency_guide/download.

As outlined below, Requesters intend to make the information received in response to this request available to the public at no charge. Further, Requesters reach a wide audience, which includes varied segments of the U.S. public.

The Council regularly provides information to the public based on its FOIA requests.⁴ In keeping with its track record of synthesizing or otherwise publishing information on governmental operations shared in responses to FOIA requests, the Council intends to post documents received in response to this FOIA request on its publicly accessible website. Between January 1, 2019 and the present, the Council has received more than 2.6 million pageviews from more than 1.5 million unique visitors.

AILA also widely disseminates information to its members and the public in the form of continuing legal education materials, information, and resources, primarily through its website <https://www.aila.org/>.⁵ Those who visit AILA's website include immigration attorneys and their individual and employer clients, media representatives, U.S businesses, foreign nationals, law students, elected officials, government employees, and other interested members of the public. Moreover, information posted to AILA's website is often linked to the websites of other organizations and immigration law firms. AILA also disseminates the information through its newsletters, social media, and other print and electronic publications.

NIJC is an organization that works to protect the rights of immigrants, refugees and asylum seekers.⁶ As part of that mission, it disseminates information about these issues to policy makers, attorneys, the general public, and affected communities, and these materials routinely include information obtained through FOIA requests.⁷ NIJC publishes newsletters, know-your-rights pamphlets, and reports on immigration issues.

⁴ See, e.g., Guillermo Cantor and Walter Ewing, American Immigration Council, *Still No Action Taken: Complaints Against Border Patrol Agents Continue to Go Unanswered* (August 2017) (examining records of alleged misconduct by Border Patrol employees), http://bit.ly/Council_StillNoActionTaken; American Immigration Council, *Enforcement Overdrive: A Comprehensive Assessment of ICE's Criminal Alien Program* (November 2015) (analyzing data obtained from ICE on the CAP program), http://bit.ly/Council_ICE_CAP.

⁵ See *AILA Receives Records Relating to EOIR Misconduct in FOIA Lawsuit*, AILA Doc. No. 13111458 (last updated November 1, 2018), <https://www.aila.org/infonet/eoir-records-relating-misconduct>; *CBP Releases Officer's Reference Tool Documents*, AILA Doc. No. 18112701 (last updated October 21, 2019), <https://www.aila.org/infonet/gr-foia-cbp-table>; *FOIA Response Highlights Importance of Independent Judges, Court Reform*, AILA Doc. No. 18040300 (last updated April 23, 2018), <https://www.aila.org/infonet/foia-response-labor-agreement-between-eoir-naij>.

⁶ NIJC, About Heartland Alliance's National Immigrant Justice Center, <https://immigrantjustice.org/about-heartland-alliances-national-immigrant-justice-center>.

⁷ See, e.g., NIJC, *Department Of Justice Executive Office For Immigration Review (EOIR) Responses To NIJC Freedom Of Information Act (FOIA) Requests Regarding The Immigration "Surge Courts,"* <https://immigrantjustice.org/immigration-surge-courts> (publishing documents received in response to FOIA request).

Chicago AILA is an affiliate of AILA, and claims members throughout the Midwest, including a substantial number of non-profit and non-governmental organizations and most, if not all, local law schools with immigration clinics. Chicago AILA widely disseminates information to its members and encourages further distribution among its non-profit and non-governmental, and educational members and partners.

B. Disclosure of the Information Is Not in the Commercial Interest of the Requesters

The Council is a not-for-profit organization and has no commercial interest in the present request. *See e.g.* 6 C.F.R. § 5.11(k)(3)(i)-(ii). This request furthers the Council's work to increase public understanding of immigration law and policy, advocate for the fair and just administration of our immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. As with all other reports and information available on the Council's website, the information that the Council receives in response to this FOIA request will be available to immigration attorneys, noncitizens, and other interested members of the public free of charge.

AILA is a nonpartisan, 501(c)(6) tax-exempt not-for-profit organization with no commercial interest in the present request. AILA provides its members and the public with continuing legal education, information, and resources, primarily through its website, www.aila.org, that is updated daily with the latest immigration news and information, including agency guidance, interpretations, and policy memoranda. As described above, AILA seeks the requested information for the purpose of disseminating it to the general public, free of charge.

NIJC is a not-for-profit organization and has no commercial interest in the present request. NIJC regularly provides immigration attorneys, pro bono attorneys, and immigrant communities with education, information, and resources regarding the immigration court system, through its website, www.immigrantjustice.org, and through legal trainings and community education presentations. NIJC seeks the requested information for the purpose of educating its partners and the immigrant community, free of charge.

Chicago AILA is a nonpartisan, 501(c)(6) tax-exempt not-for-profit organization with no commercial interest in the present request. It is an affiliate of AILA. Its purpose is to advance the quality of immigration law and practice among immigration attorneys in the Midwest and enhance the professional development of its members, as well as to encourage fair and reasonable law and policy. Chicago AILA seeks the requested information for purposes of disseminating it to its members and the broader community of non-profit, non-governmental organizations and law schools in the area.

Given that FOIA's fee-waiver requirements are to "be liberally construed in favor of waivers for noncommercial requesters," a waiver of all fees is justified and warranted in this case. *See Judicial Watch v. Rossotti*, 326 F.3d 1309, 1312-14 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

3. DISCLOSURE UNDER 5 U.S.C. §§ 552(a)(1)(A) and (B)

Requesters make this request because a complete listing of all current immigration courts, including IACs, and their procedures, is not available on EOIR’s website. Requesters urge EOIR to post a full listing of all active courts, including IACs, along with corresponding procedures on EOIR’s website pursuant to 5 U.S.C. §§ 552(a)(1)(A) and (B). These provisions require that an agency proactively disclose how “...the public may obtain information, make submittals or requests, or obtain decisions...,” 5 U.S.C. §§ 552(a)(1)(A), or “statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available....” 5 U.S.C. §§ 552(a)(1)(B).

Requesters maintain that the location of courts, including adjudication centers, and their corresponding procedures is information mandated to be posted for the public. 5 U.S.C. §§ 552(a)(1)(A) and (B). Immigration courts and adjudication centers oversee removal proceedings. As such, they serve to channel important substantive EOIR functions in the immigration court system, including receiving filings, hearing removal cases and issuing decisions. The agency has a duty to proactively post a listing of all active courts, including adjudication centers, and their corresponding procedures, so the public may access and understand these functions and any corresponding procedures.

4. EXEMPTIONS

If EOIR concludes that statutory exemptions apply to any of the information requested, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

5. FORMAT OF PRODUCTION

Requesters seek the data in a workable format, such as Microsoft Excel. ***Please also provide a glossary or other descriptive records containing definitions of acronyms, numerical codes, or terms contained in data responsive to this request, if those terms are not in the form template and/or publicly defined.***

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Thank you in advance for your attention to this request. If you have any questions regarding this request, please feel free to email or call Claudia Valenzuela at the contact information under the first signature block below.

Sincerely,

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