

MAYER BROWN LLP

Sophia M. Mancall-Bitel (SBN 337002)

smancall-bitel@mayerbrown.com

Sarah A. Hsu (SBN 348402)

shsu@mayerbrown.com

Charles L.J. Turner (SBN 349195)

clturner@mayerbrown.com

333 South Grand Avenue, Suite 4700

Los Angeles, CA 90071

Telephone: (213) 229-9500

Facsimile: (213) 625-0248

**ACLU FOUNDATION OF
SOUTHERN CALIFORNIA**

Eva L. Bitran (SBN 302081)

ebitran@aclusocal.org

1313 W. 8th Street

Los Angeles, CA 90017

Telephone: (909) 380-7505

Attorneys for Plaintiff

*(additional counsel information on signature
page)*

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION OF
SOUTHERN CALIFORNIA,

Plaintiff,

v.

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT,

Defendant.

Case No.: 2:24-cv-9930

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. This action under the Freedom of Information Act (“FOIA”) seeks the timely release of agency records by U.S. Immigration and Customs Enforcement (“ICE” or “Defendant”). Specifically, this action seeks disclosure of records related to the ICE Air Operations (“ICE Air”) program from the period of January 1, 2023 through the present, including, but not limited to, contracts for operating removal flights and ground transportation to removal flights, and internal policies and procedures for staging, staffing, and handling flights, including those with unaccompanied children.

2. The records sought address a matter of great public concern. ICE maintains ICE Air to remove noncitizens from the United States by air. Over the past few decades, the institutional infrastructure behind these flights has shifted from a government-run operation by the U.S. Marshals Service on government planes, to a sprawling and opaque network of flights on privately-owned aircraft chartered by ICE Air. Despite the critical role these flights play in the removal system—in many instances, serving as the mechanism for deportation—ICE Air remains shrouded in secrecy.¹ This secrecy has masked responsibility for serious abuses and danger on ICE Air flights.² ICE’s air removal operations are a matter of widespread media and public interest.³ President-elect Donald Trump’s stated plan to arrest noncitizens on

¹ McKenzie Funk, *At Seattle’s Boeing Field, Real-Time Video Offers a Rare Glimpse of America’s Troubled Deportation Flights*, Pro Publica, March 8, 2024, <https://www.propublica.org/article/seattle-boeing-field-ice-deportation-flights>.

² See, e.g., Complaint at 2, *Ibrahim v. Acosta*, No. 1:17-cv-24574-DPG (S.D. Fla. Dec. 19, 2017), ECF No. 3, <https://www.documentcloud.org/documents/4391195-Somali-TRO-Complaint-December-19.html>; Belal Hossain Biplob and Aviva Stahl, *South Asian Migrants Say They Were Put in ‘Body Bags’ for Deportation from US*, The Guardian (May 27, 2016), <https://www.theguardian.com/us-news/2016/may/27/south-asian-migrants-body-bags-deportation-us>; Angelika Albaladejo, *A Drunk Mechanic, Shackled Immigrants, a Crash Landing: The Dangers of ICE Flights*, Capital & Main (Nov. 4, 2021), <https://capitalandmain.com/a-drunk-mechanic-shackled-immigrants-a-crash-landing-the-dangers-of-ice-flights>.

³ See, e.g., *ICE Conducts Repatriation Flight from Laredo Airport*, KGNS News (Aug. 16, 2023), <https://www.kgns.tv/2023/08/16/ice-conducts-repatriation-flight->

1 a vast scale and operate around-the-clock deportation flights using ICE Air has
 2 rendered the public's interest in the matter all the greater.⁴ The information sought
 3 in the request will shed critical light on ICE's removal processes and help to inform
 4 the public of the risks that would result if ICE Air's capacity is further built out.

5 3. Plaintiff American Civil Liberties Union Foundation of Southern
 6 California ("ACLU SoCal"), which is a non-profit, non-partisan civil liberties
 7 advocacy organization, submitted a FOIA request (the "Request") to the Defendant
 8 on August 15, 2024 seeking the release of records relating to the implementation of
 9 ICE's air removal operations. To date, Defendant has not released any responsive
 10 records, notwithstanding the FOIA's requirement that agencies respond to requests
 11 within, at most, 30 working days.

12 4. Plaintiff now asks the Court for injunctive and other appropriate relief
 13 requiring Defendant to conduct a thorough search for all responsive records and to
 14 immediately process and release any responsive records. Plaintiff also seeks an order
 15 enjoining Defendant from withholding non-exempt, responsive records. Finally,
 16 Plaintiff seeks an order that Defendant immediately and expeditiously process and
 17 release any responsive records.

18 5. In light of the outcome of the 2024 U.S. presidential election, the need
 19 [laredo-airport/](#) (Laredo, TX); Jerod MacDonald-Evoy, *'ICE Air' Flew More than*
 20 *32K Immigrants Out of Mesa in Less Than 10 Months*, AZ Mirror (July 17, 2019),
 21 [https://azmirror.com/2019/07/17/ice-air-flew-more-than-32k-immigrants-out-of-](https://azmirror.com/2019/07/17/ice-air-flew-more-than-32k-immigrants-out-of-mesa-in-less-than-10-months/)
 22 [mesa-in-less-than-10-months/](https://azmirror.com/2019/07/17/ice-air-flew-more-than-32k-immigrants-out-of-mesa-in-less-than-10-months/) (Mesa, AZ); Cat Ferguson, *ICE Used Oakland*
 23 *Airport to Deport and Transfer Tens of Thousands of Immigration Detainees*,
 24 Mercury News (July 21, 2019), [https://www.mercurynews.com/2019/07/21/ice-](https://www.mercurynews.com/2019/07/21/ice-used-oakland-airport-to-deport-and-transfer-tens-of-thousands-of-immigration-detainees/)
 25 [used-oakland-airport-to-deport-and-transfer-tens-of-thousands-of-immigration-](https://www.mercurynews.com/2019/07/21/ice-used-oakland-airport-to-deport-and-transfer-tens-of-thousands-of-immigration-detainees/)
 26 [detainees/](https://www.mercurynews.com/2019/07/21/ice-used-oakland-airport-to-deport-and-transfer-tens-of-thousands-of-immigration-detainees/) (Oakland, CA).

24 ⁴ See, e.g., Ronald Brownstein, *Trump's 'Knock on the Door'*, Atlantic (Feb. 8,
 25 2024), [https://www.theatlantic.com/politics/archive/2024/02/trumps-immigration-](https://www.theatlantic.com/politics/archive/2024/02/trumps-immigration-plan-is-even-more-aggressive-now/677385/)
 26 [plan-is-even-more-aggressive-now/677385/](https://www.theatlantic.com/politics/archive/2024/02/trumps-immigration-plan-is-even-more-aggressive-now/677385/); Charlie Savage, Maggie Haberman &
 27 Jonathan Swan, *Sweeping Raids, Giant Camps and Mass Deportations: Inside*
 28 *Trump's 2025 Immigration Plans*, N.Y. Times (Nov. 11, 2023),
[https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-](https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-agenda.html)
[agenda.html](https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-agenda.html); Philip Bump, *The Incomprehensible, Unattainable Scale of Trump's*
Deportation Plan, Wash. Post (May 15, 2024),
[https://www.washingtonpost.com/politics/2024/05/15/trump-immigration-](https://www.washingtonpost.com/politics/2024/05/15/trump-immigration-deportation-plan/)
[deportation-plan/](https://www.washingtonpost.com/politics/2024/05/15/trump-immigration-deportation-plan/).

1 for the records requested is especially urgent. The concerns underlying this Request
 2 are not speculative: President-elect Trump has repeatedly stated his plans to
 3 implement mass deportation nationwide.⁵ These plans raise serious concerns about
 4 operational feasibility, their impact, and the potential for continued—and
 5 increased—serious abuses and danger on ICE Air flights.

6 **JURISDICTION AND VENUE**

7 6. The Court has subject matter jurisdiction over this action and personal
 8 jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). The Court also has
 9 jurisdiction over this action under 28 U.S.C. § 1331 and 5 U.S.C. §§ 701–06.

10 7. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B). Plaintiff
 11 resides and has its principal place of business in this district.

12 **PARTIES**

13 8. Plaintiff ACLU SoCal is a non-profit, non-partisan organization under
 14 the laws of California with over 120,000 members. As an affiliate of the national
 15 American Civil Liberties Union Foundation, ACLU SoCal is dedicated to the
 16 principles of liberty and equality embodied in the constitutions of the United States
 17 and California, as well as our nation’s civil rights laws. ACLU SoCal is also
 18 committed to principles of transparency and accountability in government, and seeks
 19 to ensure that the American public is informed about the conduct of its government
 20 in matters that affect civil liberties and human rights. Obtaining information about
 21 governmental activity, analyzing that information, and widely publishing and
 22 disseminating it to the press and public is a critical and substantial component of the
 23 ACLU’s work and one of its primary activities.

24 9. Defendant ICE is an agency of the U.S. government within the meaning

25 ⁵ See, e.g., Colleen Long & Dan Merica, *What Trump has said he will do on Day 1*,
 26 PBS (Nov. 12, 2024), <https://www.pbs.org/newshour/politics/what-trump-has-said-he-will-do-on-day-1>;
 27 Charlie Savage, Maggie Haberman & Jonathan Swan, *Sweeping Raids, Giant Camps and Mass Deportations: Inside Trump’s 2025*
 28 *Immigration Plans*, N.Y. Times (Nov. 11, 2023), <https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-agenda.html>.

of 5 U.S.C. § 551(1), 5 U.S.C. § 552(f), and 5 U.S.C. § 702. ICE has possession, custody, and control of records that ACLU SoCal seeks.

FACTUAL BACKGROUND

10. On August 15, 2024, ACLU SoCal submitted the Request to ICE, seeking records related to the ICE Air Operations program from the period of January 1, 2023, through the present, including but not limited to contracts for operating removal flights and ground transportation to removal flights, and internal policies and procedures for staging, staffing, and handling flights, including ones with unaccompanied children. See **Exhibit A**, “FOIA Request to ICE.” Specifically, the Request seeks the following records:

- (1) “All ICE contracts in effect during any portion of the designated time period, including any addenda, attachments, and incorporated DOCUMENTS, regarding air transportation to execute removals, including flights leaving the United States and domestic flights to transport noncitizens in between detention sites to stage for removals. This includes, but is not limited to, the following contracts:
 - a) Award ID No. 70CDCR18FR0000002
 - b) Award ID No. 70CDCR23FR0000035
 - c) Award ID No. 70CDCR24FR0000024[.]”

See id. at 3.

- (2) “All ICE contracts, including addenda, attachments, and incorporated DOCUMENTS, for ground transportation to transfer noncitizens to airports for removal flights.” *See id.*
- (3) “DOCUMENTS sufficient to show the airfields ICE uses, or has access to, for removal flights.” *See id.*
- (4) “Memoranda, guidance, or any other DOCUMENTS regarding ICE’s policies or procedures for staging noncitizens, including unaccompanied noncitizen children, for removal prior to flights.” *See id.*
- (5) “DOCUMENTS sufficient to show personnel required to be present on an aircraft to operate an ICE removal flight, including but not limited to, the flight crew, guards, and medical personnel.” *See id.*

11. Plaintiff sought a waiver of any fees associated with responding to the Request, including any search, review, and reproduction fees, on the ground that

disclosure of the requested records 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 the commercial interest of the requester.”

5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k); 28 C.F.R. § 16.10(k).

12. Plaintiff also sought a waiver of any fees associated with responding to the Request, including any search and review fees, on the grounds that the ACLU qualifies as a “representative of the news media” and that the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II); *see also* 6 C.F.R. § 5.11(d)(1); 28 C.F.R. §§ 16.10(c)(1)(i), (d)(1).

13. In addition, Plaintiff sought expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E), 6 C.F.R. § 5.5(e), and 28 C.F.R. § 16.5(e), because there is a “compelling need” for these records. As an organization that routinely disseminates information to the public and advocates for government transparency and accountability, especially as to potential government abuses of civil rights and civil liberties, Plaintiff has an urgent need to obtain these records, so it can inform the public about the federal government’s activities with respect to ICE’s air removal operations and its treatment of noncitizens.

Defendant’s Responses to the Request

14. ICE acknowledged receipt of the Request attached as **Exhibit A** on August 23, 2024, by email. *See Exhibit B* (“August 2024 ICE Response”). ICE invoked a statutory 10-business-day extension for its response under 5 U.S.C. § 552(a)(6)(B), pointing to “numerous documents that will necessitate a thorough and wide-ranging search.” *See id.* at 1. ICE stated that while “[n]arrowing the scope [of the Request] may speed up the search process,” it would “make every effort to comply with [the] [R]equest in a timely manner.” *See id.* With the 10-day extension, ICE was required to respond to the request by September 27, 2024.

15. ICE’s continued failure to produce any responsive records has far-reaching implications. ICE continues to withhold from the public key information

1 about the millions of taxpayer dollars that it funnels to private third parties to operate
2 ICE Air with little public oversight or transparency. The government’s deportation
3 will be a subject of great public interest during the next presidential administration,
4 as President-elect Trump has vowed to undertake a “mass deportation operation”
5 immediately upon taking office. By withholding these records, ICE is also depriving
6 the public of information about the unsafe conditions, physical abuse, and other
7 gross human rights abuses (such as shackling and inadequate medical attention)
8 faced by immigrants held on removal flights.

9 16. In the August 2024 ICE Response, ICE granted Plaintiff’s fee waiver
10 request. *See id.* at 2. But it denied Plaintiff’s request for expedited processing. *Id.*

11 17. On September 17, 2024, ICE emailed Plaintiff, requesting clarification
12 about the Request. *See Exhibit C* (“September 2024 ICE Response and
13 Clarification”). Specifically, ICE asked whether the Request seeks “new contracts
14 awarded during this time period listed or any contract in effect during that period?”
15 *See id.* at 2. Plaintiff responded the next day to clarify that the Request encompasses
16 “any contract in effect during that time period, *including* any new contracts awarded
17 during that period if they were in effect during any of that time period.” *See id.* at 1
18 (emphasis in original). ICE has not yet responded to that email.

19 18. To date, ICE has not released a single responsive record or explained
20 any basis for withholding any record.

21 STATUTORY REQUIREMENTS

22 19. “The Freedom of Information Act was enacted to facilitate public
23 access to government documents.” *U.S. Dep’t of State v. Ray*, 502 U.S. 164, 173
24 (1991) (citing *John Doe Agency v. John Doe Corp.*, 493 U.S. 146, 151 (1989)). Its
25 basic purpose is “to ensure an informed citizenry, vital to the functioning of a
26 democratic society, needed to check against corruption and hold the governors
27 accountable to the governed.” *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214,
28 242 (1978).

20. With that purpose in mind, the FOIA statute requires federal agencies like Defendant to disclose records within 20 working days in response to FOIA requests. 5 U.S.C. § 552(a)(6)(A)(i). If there are “unusual circumstances,” an agency may extend the time limit by no more than 10 working days. *Id.* § 552(a)(6)(B)(i). To invoke that extension, the agency must provide “written notice . . . setting forth the unusual circumstances for such extension and the date on which a determination is expected to be dispatched.” *Id.* An agency can extend its processing time beyond the additional 10 days only if it provides written notice and “an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request.” *Id.* § 552(a)(6)(B)(ii).

21. FOIA also allows for requesters to ask for expedited processing of their request for records if they can demonstrate a compelling need. 5 U.S.C. § 552(a)(6)(E)(i). The term “compelling need” applies to requesters who are primarily engaged in disseminating information and possess the urgency to inform the public concerning actual or alleged Federal government activity. 5 U.S.C. § 552(a)(6)(E)(v)(II).

22. More than 30 working days have passed since ICE received Plaintiff’s Request, but no records have been produced to date.

23. The statutory time period has thus elapsed for ICE’s response to the Request.

24. A district court has jurisdiction to enjoin an agency from withholding records and to order production of records that are subject to disclosure. 5 U.S.C. § 552(a)(4)(B).

CLAIMS FOR RELIEF

CLAIM I

5 U.S.C. § 552(a)(6)(A)

Failure to Timely Respond to the Request

25. Plaintiff incorporates by reference the above paragraphs as if fully set

forth herein.

26. Plaintiff properly submitted the Request on August 15, 2024, requesting records within the possession, custody, and control of Defendant.

27. Defendant is obligated under 5 U.S.C. § 552(a)(3) to produce records responsive to Plaintiff's Request.

28. To date, Defendant has not provided a determination on the Request for disclosure of the requested records to Plaintiff.

29. No basis exists for Defendant's failure to provide a response to Plaintiff's Request.

30. Defendant's failure to provide a determination within the statutory period is a violation of 5 U.S.C. § 552(a)(6)(A) and its corresponding regulations. By failing to disclose and release the requested records, Defendant has violated Plaintiff's rights to Defendant's records under 5 U.S.C. § 552.

CLAIM II
5 U.S.C. § 552(a)(3)(A)-(D)
Failure to Make a Reasonable Effort to Search for and
Promptly Release Records

31. Plaintiff incorporates by reference the above paragraphs as if fully set forth herein.

32. Defendant is an agency subject to and within the meaning of FOIA, and it must therefore make reasonable efforts to search for requested records.

33. Upon information and belief, Defendant has in its possession responsive documents, including those specifically identified in Plaintiff's Request, that it has failed to produce.

34. The failure of Defendant to make a reasonable effort to search for records responsive to the Request violates 5 U.S.C. § 552(a)(3) and Defendant's corresponding regulations.

CLAIM III
5 U.S.C. § 552(a)(3)(A)–(D), (a)(8)(A), (b)
Failure to Promptly Release Non-Exempt Records

35. Plaintiff incorporates by reference the above paragraphs as if fully set forth herein.

36. Defendant is an agency subject to and within the meaning of FOIA, and it must therefore promptly release all non-exempt records.

37. Upon information and belief, Defendant has in its possession responsive, non-exempt documents, including those specifically identified in Plaintiff's Request, that it has failed to produce.

38. By withholding non-exempt agency records subject to the Request, Defendant has violated 5 U.S.C. § 552 and Defendant's corresponding regulations.

CLAIM IV
5 U.S.C. § 552(a)(6)(E)
Failure to Process Plaintiff's Request Expeditiously and as Soon as Practicable

39. Plaintiff incorporates by reference the above paragraphs as if fully set forth herein.

40. Defendant is an agency subject to and within the meaning of FOIA, and it must therefore release all responsive, non-exempt records in an expedited timeframe when a basis exists to do so.

41. Plaintiff is primarily engaged in disseminating information to the public. Plaintiff has the ability and intention to widely disseminate the requested information through a variety of sources, including reports, newsletters, news briefings, right-to-know handbooks, and other materials, to the public at no cost. Indeed, obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of the ACLU's work and are among its primary activities.

42. The requested records pertain to the federal government's deportation

1 network and the ways in which Defendant spends its significant deportation budget.
2 This is a matter of widespread media and public interest, and the requested records
3 will inform the public of pressing and urgent federal governmental activities, actual
4 or alleged. The need for the requested records is particularly urgent in light of
5 President-elect Trump's stated plans to implement mass deportation.

6 43. Defendant denied Plaintiff's request for expedited processing without
7 adequate basis.

8 44. The failure of Defendant to process Plaintiff's Request expeditiously
9 and as soon as practicable violates 5 U.S.C. § 552(a)(6)(E) and Defendant's
10 corresponding regulations.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff respectfully requests that this Court:

13 a) Declare that Defendant's failure to respond and produce the requested
14 records is unlawful;

15 b) Order Defendant to conduct a full, adequate, and expedited search for
16 all responsive records;

17 c) Declare that the requested records are not exempt from disclosure under
18 the Freedom of Information Act;

19 d) Enjoin Defendant from withholding non-exempt, responsive records;

20 e) Declare that Plaintiff is entitled to immediate and expeditious
21 processing and release of any responsive records;

22 f) Order Defendant to immediately and expeditiously process and release
23 any responsive records;

24 g) Award Plaintiff its costs and reasonable attorneys' fees incurred in this
25 action; and

26 h) Grant such other relief as the Court deems just and proper.
27
28

1 Dated: November 18, 2024

2 **MAYER BROWN LLP**

3
4 By: /s/ Sophia M. Mancall-Bitel
5 Sophia M. Mancall-Bitel
6 *smancall-bitel@mayerbrown.com*

7 Sarah A. Hsu
8 *shsu@mayerbrown.com*

9 Charles L.J. Turner
10 *clturner@mayerbrown.com*
11 333 South Grand Avenue, Suite 4700
12 Los Angeles, CA 90071
13 Telephone: (213) 229-9500

14 **AMERICAN CIVIL LIBERTIES**
15 **UNION FOUNDATION**
16 **NATIONAL PRISON PROJECT**
17 Eunice Cho (*pro hac vice* forthcoming)
18 *echo@aclul.org*
19 915 Fifteenth Street NW, 7th Floor
20 Washington, DC 20005
21 Tel.: (202) 548-6616

22 Kyle Virgien (SBN 278747)
23 *kvirgien@aclu.org*
24 425 California Street, 7th Floor
25 San Francisco, CA 94104
26 Tel.: (415) 343-0770

27 **AMERICAN CIVIL LIBERTIES**
28 **UNION FOUNDATION**
IMMIGRANTS' RIGHTS PROJECT
My Khanh Ngo (SBN 317817)
mngo@aclu.org
425 California Street, 7th Floor
San Francisco, CA 94104
Tel.: (415) 343-0764

Attorneys for Plaintiff

EXHIBIT A



August 15, 2024

Sent via SecureRelease Portal

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street SW, Stop 5009
Washington, DC 20536-5009
Email: ICE-FOIA@dhs.gov

Re: FOIA Request for Records Related to **U.S. Immigration and Customs Enforcement**
("ICE") Removal Flights and Transportation
(Fee Waiver & Expedited Processing Requested)

Dear Freedom of Information Officer:

This letter is a request for records ("Request") made pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, *et seq.*, and the relevant implementing regulations, *see* 6 C.F.R. § 5 *et seq.* The Request is submitted by the American Civil Liberties Union Foundation of Southern California ("ACLU SoCal" or "Requestor"). Requestor seeks the disclosure of records related to the ICE Air Operation ("ICE Air") program from the period of January 1, 2023 through the present, including, but not limited to, contracts for operating removal flights and ground transportation to removal flights, and internal policies and procedures for handling flights with unaccompanied children, staging flights, and staffing flights.

Requester also seeks a fee waiver, pursuant to 5 U.S.C. § 552(a)(4)(A) and 6 C.F.R. § 5.11(k), and expedited processing, pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(d). The justifications for the fee waiver and expedited processing are set out in detail below.

I. Background

ICE maintains ICE Air to remove noncitizens from the United States by air. Over the past few decades, the institutional infrastructure behind these flights has shifted from a government-run operation by the U.S. Marshals Service on government planes, to a sprawling and opaque network of flights on privately-owned aircraft chartered by ICE Air.¹

¹ Univ. of Wash. Ctr. for Human Rights, Hidden in Plain Sight: ICE Air and the Machinery of Mass Deportation (2019), <https://jsis.washington.edu/humanrights/2019/04/23/ice-air/>.

EXECUTIVE DIRECTOR Hector O. Villagra

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EXHIBIT A
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*deceased

Despite the critical role these flights play in the removal system—in many instances, serving as the mechanism of deportation—ICE Air remains shrouded in secrecy. Many ICE Air flights depart from small or remote airports; noncitizens departing on charter flights from major airports often board in hidden corners of the airport, away from the public eye. In Seattle, for instance, ICE positions buses to block the view of noncitizens boarding deportation flights from the road outside the airport.²

This secrecy has masked responsibility for serious abuses and danger on ICE Air flights. Passengers have remained bound and shackled for hours during unscheduled layovers, unable to use the bathroom.³ Other passengers described how they were forcefully placed in body bags and tased while boarding their deportation flights.⁴ ICE Air flights have suffered from troubling in-flight emergencies, including fires during crash landings and smoke in the cabins.⁵ Shackled passengers struggle to evacuate during emergencies, and language barriers between the crew and passengers exacerbate the danger.

Requestor seeks to better understand how this system functions, including the actors involved in the deportation flights and internal agency procedures regarding the flights. This information is especially urgent given presidential-candidate Donald Trump’s stated plan to arrest noncitizens on a vast scale and operate around-the-clock deportation flights if reelected in 2024.⁶

II. Requestor

ACLU SoCal is a non-profit organization dedicated to defending and securing the rights granted by the U.S. Constitution and Bill of Rights. ACLU SoCal’s work focuses on immigrants’ rights, the First Amendment, equal protection, due process, privacy, and furthering civil rights for disadvantaged groups. As part of its work, ACLU SoCal monitors ICE enforcement practices and detention conditions. ACLU SoCal disseminates information to the public through its website and social media platforms, “Know Your Rights” documents, and other educational and informational materials. The ACLU SoCal regularly submits FOIA requests to DHS and other agencies – including, for example, on ICE’s policies and practices for worksite immigration enforcement, and USCIS’s policies and practices for the adjudication of naturalization applications – and publicizes the information it obtains through its website, newsletters, reports and “Know Your Rights” presentations and materials.

III. Definitions

² McKenzie Funk, *At Seattle’s Boeing Field, Real-Time Video Offers a Rare Glimpse of America’s Troubled Deportation Flights*, Pro Publica, March 8, 2024, <https://www.propublica.org/article/seattle-boeing-field-ice-deportation-flights>.

³ Complaint at 2, *Ibrahim v. Acosta*, No. 1:17-cv-24574-DPG (S.D. Fla. Dec. 19, 2017), ECF No. 3, <https://www.documentcloud.org/documents/4391195-Somali-TRO-Complaint-December-19.html>.

⁴ Belal Hossain Biplob and Aviva Stahl, *South Asian Migrants Say They Were Put in ‘Body Bags’ for Deportation from US*, The Guardian (May 27, 2016), <https://www.theguardian.com/us-news/2016/may/27/south-asian-migrants-body-bags-deportation-us>.

⁵ Angelika Albaladejo, *A Drunk Mechanic, Shackled Immigrants, a Crash Landing: The Dangers of ICE Flights*, Capital & Main (Nov. 4, 2021), <https://capitalandmain.com/a-drunk-mechanic-shackled-immigrants-a-crash-landing-the-dangers-of-ice-flights>.

⁶ Ronald Brownstein, *Trump’s ‘Knock on the Door’*, Atlantic (Feb. 8, 2024), <https://www.theatlantic.com/politics/archive/2024/02/trumps-immigration-plan-is-even-more-aggressive-now/677385/>.

For the purpose of this Request, the terms listed below are defined as follows:

“DOCUMENTS” has the same scope used in Rule 34(a)(1) of the Federal Rules of Civil Procedure and shall encompass every writing or record of every type and description and every tangible thing that is or has been in the possession, custody, or control of the federal agency or agencies that are the subject of this request and their employees, to which they have access, or of which they have knowledge, including, but not limited to, newspaper articles, magazine articles, news articles, correspondence, letters, contracts, files, electronic mail, memoranda, stenographic notes, handwritten notes, drafts, studies, publications, books, pamphlets, catalogs, purchase orders, receipts, advertisements, direct mail solicitations, point-of-sale and point-of-purchase materials, notebooks, diaries, models, devices, pictures, photographs, films, audiotapes, videotapes, computer records, voice recordings, maps, reports, surveys, minutes, data compilations, and statistical compilations, regardless of whether a particular DOCUMENT is privileged or confidential, and regardless of the form of storage (including, but not limited to, paper, microfiche, magnetic tape, magnetic disk (hard disk or floppy disk), CD-ROM, DVD, optical disk, or electronic storage device).

“ICE” means Immigration and Customs Enforcement, and any components, subcomponents, offices, or personnel therein.

IV. Records Requested

This Request seeks, for the period from January 1, 2023 through the present, the following records:

- 1) All ICE contracts in effect during any portion of the designated time period, including any addenda, attachments, and incorporated DOCUMENTS, regarding air transportation to execute removals, including flights leaving the United States and domestic flights to transport noncitizens in between detention sites to stage for removals. This includes, but is not limited to, the following contracts:
 - a) Award ID No. 70CDCR18FR0000002
 - b) Award ID No. 70CDCR23FR0000035
 - c) Award ID No. 70CDCR24FR0000024
- 2) All ICE contracts, including addenda, attachments, and incorporated DOCUMENTS, for ground transportation to transfer noncitizens to airports for removal flights.
- 3) DOCUMENTS sufficient to show the airfields ICE uses, or has access to, for removal flights.
- 4) Memoranda, guidance, or any other DOCUMENTS regarding ICE’s policies or procedures for staging noncitizens, including unaccompanied noncitizen children, for removal prior to flights.
- 5) DOCUMENTS sufficient to show personnel required to be present on an aircraft to operate an ICE removal flight, including but not limited to, the flight crew, guards, and medical personnel.

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

V. Fee Waiver Request

Requestor requests that any fees associated responding to its FOIA request be waived pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k). Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k), fees should be waived or reduced if disclosure is (1) in the public interest because it is “likely to contribute significantly to public understanding of the operations or activities of the government” and (2) “not primarily in the commercial interest of the requester.” Disclosure in this case meets both of these tests. Requestor also requests a waiver or reduction of fees on the grounds that it qualifies as “representative[s] of the news media” and the records are not sought for commercial use. *See* 5 U.S.C. § 552(a)(4)(A)(ii)(II); 6 C.F.R. § 5.11(d)(1).

A. Disclosure is in the public interest as it is likely to contribute significantly to the public's understanding of the operations and activities of government.

First, disclosure pursuant to this Request is in the public interest for several reasons. As discussed above, the public has a strong interest in learning about ICE Air flights operated out of local airports. Reports of abuse and injuries on ICE Air flights heighten this public interest. And the high cost of ICE Air flights is a matter of both public and governmental concern. Finally, presidential-candidate Donald Trump's plan to use ICE Air as part of a mass deportation scheme if reelected in 2024 has garnered significant interest.

There is intense local interest in tracking where and how ICE conducts its removal flights. Across the country, local news organizations regularly report when ICE conducts removal flights from local airports.⁷ Media reports also reflect public interest in the companies who receive contracts to operate removal flights.⁸

Immigration advocates track ICE Air's use of local airports. For instance, immigration advocates in Washington tirelessly tracked ICE Air flights out of King County International Airport (“Boeing Field”). In response to pressure from advocates and constituents, King County effectively banned deportation flights from Boeing Field until the federal government sued King County over the ban and successfully obtained an injunction against the ban.⁹ Now that flights have resumed, interest remains strong. Immigration advocates and members of the public come

⁷ *See, e.g., ICE Conducts Repatriation Flight from Laredo Airport*, KGNS News (Aug. 16, 2023), <https://www.kgns.tv/2023/08/16/ice-conducts-repatriation-flight-laredo-airport/> (Laredo, TX); Jerod MacDonald-Evoy, ‘ICE Air’ Flew More than 32K Immigrants Out of Mesa in Less Than 10 Months, AZ Mirror (July 17, 2019), <https://azmirror.com/2019/07/17/ice-air-flew-more-than-32k-immigrants-out-of-mesa-in-less-than-10-months/> (Mesa, AZ); Cat Ferguson, *ICE Used Oakland Airport to Deport and Transfer Tens of Thousands of Immigration Detainees*, Mercury News (July 21, 2019), <https://www.mercurynews.com/2019/07/21/ice-used-oakland-airport-to-deport-and-transfer-tens-of-thousands-of-immigration-detainees/> (Oakland, CA).

⁸ Sam Biddle, *Amazon Co-Owns Deportation Airline Implicated in Alleged Torture of Immigrants*, Intercept (Feb. 17, 2022), <https://theintercept.com/2022/02/17/amazon-ice-deportation-flights-omni/>.

⁹ Simone Alicea, *Trump Administration Sues King County over ICE Flights from Boeing Field*, NPR: KNKX (Feb. 11, 2020), <https://www.knkx.org/news/2020-02-11/trump-administration-sues-king-county-over-ice-flights-from-boeing-field>.

weekly to an observation room at the airport to view a video feed of ICE boarding the deportation flights there.¹⁰

Reports of abuses and injuries on ICE Air flights have increased the public's interest in understanding how ICE operates ICE Air.¹¹ In 2017, passengers on a deportation flight to Somalia reported that they were left bound and shackled in their seats for 23 hours during a stopover, some forced to soil themselves because they were denied bathroom visits.¹² A year later, the right landing gear collapsed as a plane carrying individuals in ICE detention touched down at an airport in Louisiana, sparking a fire on its wing, filling the cabin with the smell of burning rubber and sending shackled passengers racing toward the three functioning evacuation slides after one slide failed to deploy.¹³ The next year, an individual in ICE's custody at the same Louisiana airport was rushed to the hospital after they tumbled from the top of the boarding stairs.¹⁴

Moreover, the expense of ICE flights is a matter of both governmental and public concern. ICE's contracts for air transportation are some of the agency's largest contracts, yet the agency fails to carefully monitor its air contractors. DHS's Office of Inspector General ("OIG") reviewed four air transportation contracts worth over \$600 million.¹⁵ OIG found that ICE "did not consistently use quality assurance surveillance to monitor contract performance" and "did not adequately review invoices to ensure expenses were correct, supported, and reasonable."¹⁶ One media report indicated that ICE is paying nearly double the going rate to carry out "high-risk" deportation flights.¹⁷

Finally, presidential-candidate Trump, if reelected, plans to conduct mass arrests of noncitizens and operate round-the-clock deportation flights, garnering intense public scrutiny.¹⁸ One of Trump's top immigration advisors, Stephen Miller, said that "the administration would schedule near-constant flights returning migrants to their home countries" meaning that "planes are moving off the runway constantly."¹⁹ Trump's mass deportation plan has faced public outcry,

¹⁰ See Funk, *supra* note 2.

¹¹ See, e.g., Albaladejo, *supra* note 5 (reporting on various abuses on ICE Air flights); Lilly Ana Fowler, *ICE Deportation Flights Resume at King County's Boeing Field*, NPR: KNKX (May 10, 2023), <https://www.knkx.org/social-justice/2023-05-10/ice-deportation-flights-resume-at-king-countys-boeing-field> (referencing "documented incidents of abuse on ICE flights"); Biddle, *supra* note 8 (reporting on "horrific abuse" on ICE Air flights); Univ. of Wash. Ctr. for Human Rights, *DHS Document Reveals Allegations of Abuse on ICE Air Deportation Flights* (Aug. 16, 2019), <https://jsis.washington.edu/humanrights/2019/08/16/ice-air-deportation-flight-complaints/> (describing dozens of complaints filed with DHS's Office of Civil Rights and Civil Liberties regarding "mistreatment, excessive force, and due process violations" on ICE Air flights).

¹² Funk, *supra* note 2.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Dep't of Homeland Sec., Off. of Inspector Gen., *ICE Should Improve Controls Over Its Transportation Services Contracts*, at 1 (2023), <https://www.oig.dhs.gov/sites/default/files/assets/2023-09/OIG-23-59-Sep23.pdf>.

¹⁶ *Id.* at 3.

¹⁷ Justin Rohrllich, *The Sole Airline Willing to Operate "High-Risk" Deportation Flights Is Price-Gouging ICE*, Quartz (Dec. 5, 2019), <https://qz.com/1761804/sole-airline-willing-to-deport-high-risk-immigrants-is-price-gouging-ice>.

¹⁸ See, e.g., Charlie Savage, Maggie Haberman & Jonathan Swan, *Sweeping Raids, Giant Camps as Mass Deportations: Inside Trump's 2025 Immigration Plans*, N.Y. Times (Nov. 11, 2023), <https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-agenda.html>; Philip Bump, *The Incomprehensible, Unattainable Scale of Trump's Deportation Plan*, Wash. Post (May 15, 2024), <https://www.washingtonpost.com/politics/2024/05/15/trump-immigration-deportation-plan/>.

¹⁹ Brownstein, *supra* note 6.

from fears that it will undermine the rule of law and due process, to concerns that staffing and funding the system could weaken other federal agencies, to worries about the economic and fiscal impact of removing a significant slice of the workforce.²⁰ The public, therefore, has a strong interest in understanding this essential component of Trump's proposed deportation apparatus.

In sum, disclosure of the requested records will shed light upon the ICE Air removal system. The requested records will thus contribute significantly to the public's understanding of ICE's removal process.

B. Disclosure is not primarily in the commercial interest of the Requestor.

Second, Requestor is not filing this request to further a commercial interest. The Requestor is a 501(c)(3) nonprofit organization that intends to disseminate the information gathered by this request to the public at no cost, including through the Requestor's website and social media. The ACLU SoCal regularly disseminates information to its members through action alerts, emails and newsletters (the ACLU SoCal has more than 28,000 members). *See* <http://www.aclusocal.org/about/>. Requestor may also compile a report or other publication on the government's treatment of immigrants based on information gathered through this FOIA. Requestor has repeatedly used information gathered through FOIA to disseminate information to the public through such forums. *See, e.g.*, <http://www.aclu.org/immigrants-rights/immigrant-detainee-rights-are-routinely-systematically-violated-new-report-finds> (ACLU SoCal report based on documents disclosed through FOIA). *See also* <http://www.aclusocal.org/about/report-directory/> (compiling recent ACLU SoCal reports). For example, based on information obtained from a February 2018 FOIA for records about ICE's practice of misrepresenting or concealing their identity when conducting enforcement actions, ACLU SoCal has both sued to stop this practice and provided community resources on it.²¹ Thus, the records requested are not sought for commercial use and Requestor plans to disseminate the information disclosed as a result of this Request to the public at no cost.

C. Requestor also qualifies for a fee waiver because it is a representative of the news media and the records are not sought for commercial use.

Requestor is also entitled to a waiver of search fees on the grounds that it qualifies as "representative[s] of the news media" and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). Requestor meets the statutory and regulatory definitions of "representative[s] of the news media" because it is an "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)(III); *see also Electronic Privacy Information Center v. Department of Defense*, 241 F. Supp. 2d 5 (D.D.C. 2003) (non-profit organization that gathered information and published it in newsletters and otherwise for general distribution qualified as representative of news media for purpose of limiting fees). Courts have reaffirmed that nonprofit requestors who are not traditional news media outlets can qualify as representatives of the new media for the purposes of the FOIA, including after the 2007 amendments to the FOIA. *See ACLU of Washington v. U.S. Dep't of Just.*, No. C09-0642RSL,

²⁰ *Id.*; Ctr. for Migration Studies of N.Y., How Trump's Mass Deportation Plan Would Hurt the United States (Mar. 27, 2024), <https://cmsny.org/how-trump-mass-deportation-plan-would-hurt-usa/>.

²¹ *See* ACLU of S. Cal., Kidd v. Mayorkas (last visited Aug. 2, 2024), <https://www.aclusocal.org/en/cases/kidd-v-mayorkas> (describing lawsuit and case developments); ACLU of S. Cal., ICE Not Welcome: Verify, Document, and Report (last visited Aug. 2, 2024), <https://www.aclusocal.org/icenotwelcome> (community resources).

2011 WL 887731, at *18 (D. Wash. Mar. 10, 2011) (finding that the ACLU qualifies as a “representative of the news media”).

In sum, because disclosure of the requested documents is in the public interest and not primarily in the commercial interest of the Requestor, and Requestor is a representative of the news media, Requestor is entitled to a total waiver of fees associated with this Request and should, in no event, be required to pay more than reasonable standard charges for document duplication. In the event that you decide not to waive the fees, please provide us with prior notice so that we can discuss arrangements.

VI. Expedited Processing Request

Requestor requests expedited processing of this Request pursuant to 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e). There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.” 5 U.S.C. § 552(a)(6)(E)(v)(II); *see also* 6 C.F.R. § 5.5(e)(1)(ii).

A. Requestor is an organization primarily engaged in disseminating information in order to inform the public about actual or alleged government activity.

Requestor is “primarily engaged in disseminating information” within the meaning of the statute. 5 U.S.C. § 552(a)(6)(E)(v)(II). As detailed *supra*, Requestor has the ability and intention to widely disseminate the requested information through a variety of sources, including reports, newsletters, news briefings, right-to-know handbooks, and other materials, to the public at no cost. Indeed, obtaining information about government activity, analyzing that information, and widely publishing and disseminating that information to the press and public are critical and substantial components of Requestor’s work and are among its primary activities. *See ACLU v. Dep’t of Justice*, 321 F. Supp. 2d 24, 29 n.5 (D.D.C. 2004) (finding non-profit public interest group that “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience” to be “primarily engaged in disseminating information”). Moreover, as mentioned *supra*, Requestor intends to distribute the information obtained through this FOIA request via its website and/or other means available to it.

B. The records sought are urgently needed to inform the public about actual or alleged government activity.

The requested records are also urgently needed to inform the public about actual or alleged government activity. *See* 5 U.S.C. § 552(a)(6)(E)(v)(II). Specifically, the requested records pertain to ICE’s air removal operations. As described *supra*, this is a matter of widespread media and public interest, and the requested records will inform the public concern of this activity by ICE. 5 U.S.C. § 552(a)(6)(E)(i)(I). Removal of noncitizens, including the manner by which it occurs, is a matter subject to significant public debate. As identified here, various advocacy groups have expressed serious concerns regarding the lack of transparency and information available regarding ICE Air’s operations. This Request will shed critical light on ICE’s removal processes.

This information is particularly urgent given presidential-candidate Trump’s plans to implement a mass deportation system if reelected in 2024. As discussed above, one of the

cornerstones of Trump's proposed removal apparatus is running constant deportation flights. The public, the media, and Congress are all urgently trying to understand this plan. Understanding the feasibility of building out ICE Air's capacity first requires knowing what contracts are presently in place, ICE Air's current capacity, and any ICE Air policies or practices currently in place.

Furthermore, denial of expedited disclosure of the requested records could "reasonably be expected to pose an imminent threat to the life or physical safety of an individual." 5 U.S.C. § 552(a)(6)(E)(v)(I); 6 C.F.R. § 5.5(e)(1)(i). ICE Air has generated troubling reports of passenger mistreatment and in-flight emergencies. As described *supra*, passengers on one deportation flight were left bound and shackled in their seats for 23 hours during a stopover, without the opportunity to use the bathroom.²² In another instance, a plane chartered by ICE Air had its landing gear collapse as the plane touched down, sparking a fire in the wing and leading to a chaotic evacuation where one evacuation slide failed to deploy.²³ And what little information is available publicly suggests that medical attention on flights is lacking; complaints filed with ICE document heart attacks, a miscarriage, and even death on ICE Air flights.²⁴ A review of the contracts, policies, and procedures for ICE Air flights will enable organizations to assess the efficacy of ICE's oversight of deportation flights and to understand what precautions, if any, contractors are obligated to take to protect the safety of passengers on ICE Air flights. Without such transparency, individuals subject to removal may continue to suffer from unsafe conditions on removal flights without adequate oversight or accountability. Given the foregoing, Requestor has satisfied the requirements for expedited processing of this Request.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief. *See* 5 U.S.C. § 552(a)(6)(E)(vi); 6 C.F.R. § 5.5(e)(3).

VII. Conclusion

Thank you for your prompt attention to this Request. We look forward to your reply to this Request within ten (10) business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii) and 6 C.F.R. § 5.5(e)(4).

Please call me at (909) 380-7505 or email me at ebitran@aclusocal.org if you have any questions or wish to obtain further information about the nature of the records in which we are interested. Please furnish the applicable records via email (ebitran@aclusocal.org).

If the records must be sent via U.S. Mail, please send to the following address:

Eva Bitran
 ACLU of Southern California
 1313 W. 8th Street
 Los Angeles, CA 90017

If this Request is denied in whole or part, we ask that you justify all deletions by reference to

²² Funk, *supra* note 2.

²³ *Id.*

²⁴ Angelika Albaladejo, *Death, Miscarriage and COVID-19: Inside ICE Air's History of Medical Neglect*, Capital & Main (Sept. 19, 2020), <https://capitalandmain.com/death-miscarriage-and-covid-19-inside-ice-air-history-of-medical-neglect-0919>.

Page 9

specific exemptions of the FOIA. We expect the release of all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information, or to deny a waiver of fees.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eva Bitran', with a stylized flourish at the end.

Eva Bitran
ACLU of Southern California
1313 W. 8th Street
Los Angeles, CA 90017

EXHIBIT B

From: ice-foia@ice.dhs.gov
To: [Eva Bitran](#)
Subject: ICE FOIA 2024-ICFO-51779
Date: Friday, August 23, 2024 7:20:41 AM

08/23/2024

Eva Bitran
1313 W 8th St
Los Angeles, California 90017

RE: ICE FOIA Case Number 2024-ICFO-51779

Dear Requester:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated 8/15/2024, your request for a waiver of all assessable FOIA fees, and your request for expedited treatment. Your request was received in this office on 8/15/2024. Specifically, you have requested records related to the ICE Air Operation ("ICE Air") program.

Due to the increasing number of FOIA requests received by this office, we may encounter some delay in processing your request. Per Section 5.5(a) of the DHS FOIA regulations, 6 C.F.R. Part 5, ICE processes FOIA requests according to their order of receipt. Although ICE's goal is to respond within 20 business days of receipt of your request, the FOIA does permit a 10-day extension of this time period. As your request seeks numerous documents that will necessitate a thorough and wide-ranging search, ICE will invoke a 10-day extension for your request, as allowed by Title 5 U.S.C. § 552(a)(6)(B). If you're able to narrow the scope of your request please contact our office. Narrowing the scope may speed up the search process. We will make every effort to comply with your request in a timely manner.

ICE evaluates fee waiver requests under the legal standard set forth above and the fee waiver policy guidance issued by the Department of Justice on April 2, 1987, as incorporated into the Department of Homeland Security's Freedom of Information Act regulations. These regulations set forth six factors to examine in determining whether the applicable legal standard for fee waiver has been met. I have considered the following factors in my evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government";
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or

activities will be "significant";

(5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

Upon review of your request and a careful consideration of the factors listed above, I have determined to grant your request for a fee waiver.

Your request for expedited treatment is hereby denied.

Under the DHS FOIA regulations, expedited processing of a FOIA request is warranted if the request involves "circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual," 6 C.F.R. § 5.5(e)(1)(i), or "an urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information," 6 C.F.R. § 5.5(e)(1)(ii). Requesters seeking expedited processing must submit a statement explaining in detail the basis for the request, and that statement must be certified by the requester to be true and correct. 6 C.F.R. § 5.5(e)(3).

Your request for expedited processing is denied because you do not qualify for either category under 6 C.F.R. § 5.5(e)(1). You have not established that lack of expedited treatment in this case will pose an imminent threat to the life or physical safety of an individual. While you may be primarily engaged in the dissemination of information, you have not detailed with specificity why you feel there is an urgency to inform the public about ICE Air. Qualifying urgency would need to exceed the public's right to know about government activity generally. You also did not offer sufficient supporting evidence of an interest of the public greater than the public's general interest in ICE Air. Your letter was conclusory in nature and did not present any facts to justify a grant of expedited processing under the applicable standards.

If you deem the decision to deny expedited treatment of your request an adverse determination, you have the right to appeal. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). You may submit your appeal electronically at GILDFOIAAppeals@ice.dhs.gov or via regular mail to:

U.S. Immigration and Customs Enforcement
Office of the Principal Legal Advisor
U.S. Department of Homeland Security
500 12th Street,, S.W., Mail Stop 5900
Washington, D.C. 20536-5900

Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

If you have any questions please contact FOIA Public Liaison Daniel Edgington, at (866) 633-1182 or 500 12th St, SW Stop 5009 Washington, DC 20536-5009. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448.

Your request has been assigned reference number 2024-ICFO-51779. Please use this number in future correspondence.

Sincerely,

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

EXHIBIT C

From: [Eva Bitran](#)
To: ["ice-foia@ice.dhs.gov"](mailto:ice-foia@ice.dhs.gov)
Subject: RE: ICE FOIA 2024-ICFO-51779 Clarification Request
Date: Wednesday, September 18, 2024 10:28:00 AM

Dear FOIA Officer,

Thank you for reaching out with this clarifying question. Our FOIA Request encompasses any contract in effect during that time period, *including* any new contracts awarded during that period if they were in effect during any of that time period.

Please let me know if you have any other questions,

Eva Bitrán (she/ella)
Director of Immigrants' Rights & Senior Staff Attorney
ACLU of Southern California
909.380.7505

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED.

From: ice-foia@ice.dhs.gov <noreply@securerelease.us>
Sent: Tuesday, September 17, 2024 1:30 PM
To: Eva Bitran <EBitran@aclusocal.org>
Subject: ICE FOIA 2024-ICFO-51779 Clarification Request

09/17/2024

Eva Bitran
1313 W 8th St
Los Angeles, California 90017

RE: ICE FOIA Case Number 2024-ICFO-51779

Dear Requester:

This e-mail is in regards to your 8/15/2024 ICE FOIA request for Records related to records related to the ICE Air Operation ("ICE Air") program.

In conducting a search for responsive records, the ICE FOIA office has determined that further

clarification is needed regarding your request.

Are you asking for new contracts awarded during this time period listed or any contract in effect during that period?

Please provide the ICE FOIA office with a response as soon as possible to avoid any further delay in the processing of your request. If a response is not received within 30 days, your request will be administratively closed.

Sincerely,

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