

# EXHIBIT 1



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

November 30, 2014

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

Via E-Mail: [uscis.foia@dhs.gov](mailto:uscis.foia@dhs.gov)

**Re: Freedom of Information Act Request**

Dear Sir or Madam:

The American Immigration Lawyers Association (AILA) submits this letter as a request for information under the Freedom of Information Act (FOIA), 5 USC §552, et. seq.

**RECORDS SOUGHT**

AILA requests any and all records<sup>1</sup> which were prepared, received, transmitted, collected and/or maintained by U.S. Citizenship and Immigration Services (USCIS) and which relate or refer in any way to the following:

- USCIS operating procedures and policies on the administration of the annual H-1B random selection process (or “lottery,”), as described in 8 CFR §214.2(h)(8)(ii)(B), (C), and (D) including, but not limited to:
  - Records that describe and/or explain the intake procedures for cap-subject cases, including how such cases are identified upon intake, received, and processed (either accepted or rejected) at each filing location;
  - Records that describe the reasons why a cap-subject petition might be rejected upon receipt, returned to the petitioner, and not included in the lottery pool;
  - Records which explain how USCIS determines when it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 regular H-1B visas and 20,000 master’s cap H-1B visas for the relevant fiscal year, including how USCIS determines the “final receipt date;”

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<sup>1</sup> The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to 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, technical manuals, training manuals, technical specifications, training materials or 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.

# EXHIBIT 2



U.S. Citizenship  
and Immigration  
Services



COW2014000817

December 4, 2014

Betsy Lawrence  
American Immigration Lawyers Association  
1331 G Street, Ste 300  
Washington, DC 20005

Dear Betsy Lawrence:

We received your request on December 04, 2014 for information relating to operating procedures for administration of H-1B. Specifically the following:

USCIS operating procedures and policies on the administration of the annual H-1B random selection process (or "lottery,"), as described in 8 CFR §214.2(h)(8)(ii)(B), (C), and (D) including, but not limited to:

- Records that describe and/or explain the intake procedures for cap-subject cases, including how such cases are identified upon intake, received, and processed (either accepted or rejected) at each filing location;
- Records that describe the reasons why a cap-subject petition might be rejected upon receipt, returned to the petitioner, and not included in the lottery pool;
- Records which explain how USCIS determines when it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 regular H-1B visas and 20,000 master's cap H-1B visas for the relevant fiscal year, including how USCIS determines the "final receipt date;"
- Records that describe and/or explain how the random selection process is conducted for the master's cap lottery, how such petitions are randomly selected, how each service center is notified of lottery "winners," and how master's cap cases are then reassigned to the regular cap lottery;
- Records that describe and/or explain how the random selection process is conducted for the regular cap lottery, how such petitions are randomly selected, and how each service center is notified of lottery "winners."
- Records that describe how USCIS tracks and counts unused H-1B's for each fiscal year and takes into account such unused numbers during the appropriate fiscal year in accordance with 8 CFR §214.2(h)(8)(ii)(C).

Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: COW2014000817. Please cite this number in all future correspondence about your request.

We respond to requests on a first-in, first-out basis and on a multi-track system. Your request has been placed in the complex track (Track 2). You may wish to narrow your request to a specific document in order to be eligible for the faster track. To do so, please send a written request, identifying the specific document sought, to the address above. We will notify you if your request is placed in the simple track.

COW2014000817

Page 2

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.3(c)), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to \$25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy.

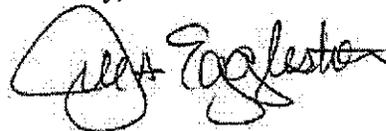
The statutory time limits for processing your request cannot be met because of unusual circumstances, and it will be necessary to extend the time limits for processing by ten working days due to the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request. In the interim if you have questions about the status of your request, you may contact Allen Jaynes at 816-350-5500, ext 5095, or by e-mail [Thomas.a.jaynes@uscis.dhs.gov](mailto:Thomas.a.jaynes@uscis.dhs.gov).

This office will be providing your records on a Compact Disc (CD) for use on your personal computer. The CD is readable on all computers through the use of Adobe Acrobat software. A version of Adobe Acrobat will be included on the CD. Your records can be viewed on your computer screen and can be printed onto paper. Only records 15 pages or more are eligible for CD printing. To request your responsive records on paper, please include your control number and write to the above address Attention: FOIA/PA Officer, or fax them to (816) 350-5785.

You may check the status of your FOIA request online, at [www.uscis.gov](http://www.uscis.gov). Click on "FOIA Request Status Check" located on the left side of the web page under "Other Services", and follow the instructions.

All FOIA/PA related requests, including address changes, must be submitted in writing and be signed by the requester. Please include the control number listed above on all correspondence with this office. Requests may be mailed to the FOIA/PA Officer at the PO Box listed at the top of the letterhead, or sent by fax to (816) 350-5785. You may also submit FOIA/PA related requests to our e-mail address at [uscis.foia@uscis.dhs.gov](mailto:uscis.foia@uscis.dhs.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Eggleston". The signature is written in a cursive style with a large initial "J" and "E".

Jill A. Eggleston  
Director, FOIA Operations

# EXHIBIT 3



**U.S. Citizenship  
and Immigration  
Services**

April 14, 2015

**COW2014000817**

Betsy Lawrence  
American Immigration Lawyers Association  
1331 G Street, Suite 300  
Washington, DC 20005

Dear Betsy Lawrence:

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office December 04, 2014 regarding the operating procedures for administration of H-1B.

Specifically, you have requested USCIS operating procedures and policies on the administration of the annual H-1B random selection process (or "lottery,"), as described in 8 CFR §214.2(h)(8)(ii)(B), (C), and (D) including, but not limited to:

- Records that describe and/or explain the intake procedures for cap-subject cases, including how such cases are identified upon intake, received, and processed (either accepted or rejected) at each filing location;
- Records that describe the reasons why a cap-subject petition might be rejected upon receipt, returned to the petitioner, and not included in the lottery pool;
- Records which explain how USCIS determines when it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 regular H-1B visas and 20,000 master's cap H-1B visas for the relevant fiscal year, including how USCIS determines the "final receipt date;"
- Records that describe and/or explain how the random selection process is conducted for the master's cap lottery, how such petitions are randomly selected, how each service center is notified of lottery "winners," and how master's cap cases are then reassigned to the regular cap lottery;
- Records that describe and/or explain how the random selection process is conducted for the regular cap lottery, how such petitions are randomly selected, and how each service center is notified of lottery "winners."
- Records that describe how USCIS tracks and counts unused H-1B's for each fiscal year and takes into account such unused numbers during the appropriate fiscal year in accordance with 8 CFR §214.2(h)(8)(ii)(C).

We have completed the review of all documents and have identified 521 pages that are responsive to your request. Enclosed are 166 pages released in their entirety and 228 pages released in part. We are withholding 127 pages in full. In our review of these pages, we have determined that they contain no reasonably segregable portion(s) of non-exempt information. We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552 (b)(3), (b)(4), (b)(5) and (b)(6) of the FOIA.

COW2014000817

Page 2

The following exemptions are applicable:

Freedom of Information Act 5 U.S.C. § 552 (b)(3)

Exemption (b)(3) provides protection for information specifically exempted from disclosure by statute, provided that such statute establishes particular criteria for withholding or refers to particular types of matters to be withheld. The statute allows us to withhold this information pursuant to 26 U.S.C. 6103 of the Internal Revenue Code.

Freedom of Information Act 5 U.S.C. § 552 (b)(4)

Exemption (b)(4) protects trade secrets and commercial or financial information that is privileged or confidential. The types of documents and/or information we have withheld may consist of unit pricing, business sales statistics; research data; technical designs; customer and supplier lists; profit and loss data; overhead and operating costs; and information on financial condition.

Freedom of Information Act 5 U.S.C. § 552 (b)(5)

Exemption (b)(5) provides protection for inter-agency or intra-agency memorandums or letters, which would not be available by law to a party other than an agency in litigation with the agency. The types of documents and/or information that we have withheld under this exemption may consist of documents containing pre-decisional information, documents or other memoranda prepared in contemplation of litigation, or confidential communications between attorney and client.

Freedom of Information Act 5 U.S.C. § 552 (b)(6)

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, drivers' licenses, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.4(a)), USCIS uses a "cut-off" date to delineate the scope of a FOIA request by treating records created after that date as not responsive to that request. Therefore, in determining which records are responsive to your request, we will only include records in the possession of this agency as of December 4, 2014, the date we began the search for records.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

If you wish to appeal this determination, you may write to the USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139, within 60 days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

The National Records Center does not process petitions, applications or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with the bureau, you must address these issues with your nearest District Office.

COW2014000817

Page 3

All FOIA/PA related requests, including address changes, must be submitted in writing and be signed by the requester. Please include the control number listed above on all correspondence with this office. Requests may be mailed to the FOIA/PA Officer at the PO Box listed at the top of the letterhead, or sent by fax to (816) 350-5785. You may also submit FOIA/PA related requests to our e-mail address at [uscis.foia@uscis.dhs.gov](mailto:uscis.foia@uscis.dhs.gov).

Sincerely,



Jill A. Eggleston  
Director, FOIA Operations

Enclosure(s)

- Records that describe and/or explain how the random selection process is conducted for the master's cap lottery, how such petitions are randomly selected, how each service center is notified of lottery "winners," and how master's cap cases are then reassigned to the regular cap lottery;
- Records that describe and/or explain how the random selection process is conducted for the regular cap lottery, how such petitions are randomly selected, and how each service center is notified of lottery "winners."
- Records that describe how USCIS tracks and counts unused H-1Bs for each fiscal year and takes into account such unused numbers during the appropriate fiscal year in accordance with 8 CFR §214.2(h)(8)(ii)(C).

Founded in 1946, the American Immigration Lawyers Association (AILA) is an association of over 13,000 attorneys and law professors who practice and teach immigration law. AILA is a nonpartisan, not-for-profit organization that provides its members with continuing legal education and information, primarily through a public website that is updated daily with the latest immigration news and information, including agency guidance, interpretations and policy memoranda. AILA publishes newsletters and other print and electronic publications, and is contacted frequently by national print and news media. AILA seeks the requested information for the purpose of disseminating it to its members and the general public and not for the purpose of commercial gain.<sup>2</sup> As such, AILA is a "representative of the news media,"<sup>3</sup> and fees associated with the processing of this request should therefore be "limited to reasonable standard charges for document duplication." 5 USC §552(a)(4)(A)(ii)(II). The records requested are not sought for commercial use, and AILA plans to disseminate the information disclosed as a result of this FOIA request through the channels described above.

Pursuant to 5 USC §552(a)(4)(A)(v), please inform us if said charges will exceed \$25.00. If you have any questions, please feel free to contact me at (202) 507-7600 or by e-mail at [blawrence@aila.org](mailto:blawrence@aila.org).

Sincerely,



Betsy Lawrence  
Director of Liaison  
American Immigration Lawyers Association

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<sup>2</sup> The term "commercial use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester. *See* 52 Fed. Reg. 10011, 11017-18 (Mar. 27, 1987).

<sup>3</sup> The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. *See* 52 Fed. Reg. at 11018.

# EXHIBIT 4



Seth A. Watkins, Ph.D.  
(202) 407-8647 direct  
watkins@adduci.com

ATTORNEYS AT LAW  
1133 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036  
Tel:(202) 467-6300 Fax:(202) 466-2006 Web:www.adduci.com

V JAMES ADDUCI II  
LOUIS S MASTRIANI  
TOM M SCHAUMBERG  
DEANNA TANNER OKUN  
WILL E LEONARD  
MUNFORD PAGE HALL II  
MICHAEL L DOANE  
SARAH E HAMBLIN  
WILLIAM C SJOBERG  
JONATHAN J ENGLER  
DAVID H HOLLANDER JR  
PAUL M BARTKOWSKI  
SETH A WATKINS PhD  
DEBORAH S STRAUSS  
QIAN SHENG\*  
DANIEL F SMITH  
ASHA ALLAM  
BEAU A JACKSON  
THOMAS R BURNS JR  
ROWAN M DOUGHERTY  
EVAN H LANGDON  
DANA L WATTS  
LAUREN E PETERSON  
GIANG TON-THAT\*

June 12, 2015

By Facsimile (802-288-1793 and 816-350-5785), Email (uscis.foia@uscis.dhs.gov),  
and USPS Express Mail, Return Receipt Requested

USCIS  
FOIA/PA Appeals Office  
150 Space Center Loop, Suite 500  
Lee's Summit, MO 64064-2139

**Re: FOIA Administrative Appeal for  
Request Control No. COW2014000817**

To whom it may concern:

This will appeal the denial of information requested under FOIA.

Pending before USCIS is a FOIA request on behalf of our client the American Immigration Lawyers Association (“Requester”) dated November 30, 2014 (“FOIA Request”). See Exhibit A. Receipt of the FOIA Request was acknowledged by USCIS by letter dated December 4, 2014. See Exhibit B. Subsequently, by letter dated April 14, 2015, USCIS provided a response to the FOIA Request (“USCIS FOIA Response”). See Exhibit C.

Requester hereby appeals the withholding of records (or portions thereof) under Exemption (b)(3). The USCIS Response does not provide any explanation of how any of the withheld records (or portions thereof) concern “returns and return information” under the Internal Revenue Code.

Requester further appeals the withholding of records (or portions thereof) under Exemption (b)(4). The USCIS Response does not provide any explanation of how the withheld records are trade secrets, commercial, or financial information. Some withheld records bear unredacted text such as “LongView-FedConsulting JV.” Requester appeals any attempt by USCIS to withhold records (or portions thereof) on the basis that they were created by a third-party who is its contractor or agent of the government.

In addition, Requester appeals the withholding of records (or portions thereof) under Exemption (b)(5). The USCIS Response does not indicate which communications were withheld on the basis of attorney-client privilege, contemplation of litigation, or allegedly as being pre-decisional.

OF COUNSEL

JOHN C STEINBERGER

\*admitted to a bar other than DC; practice limited to federal courts & agencies

HARVEY B FOX (1941-2010)

AFFILIATE

AM&S TRADE SERVICES LLC

CARLOS MOORE, PRESIDENT

USCIS  
FOIA/PA Appeals Office  
June 12, 2015  
Page 2

Requester also specifically appeals USCIS's failure to conduct an adequate search for responsive records "that describe how USCIS tracks and counts unused H-1Bs for each fiscal year and takes into account such unused numbers during the appropriate fiscal year in accordance with 8 CFR §214.2(h)(8)(ii)(C)." See FOIA Request at p. 2. No such records are believed to have been disclosed.

Finally, Requester also appeals the withholding of any records, in part or in their entirety, without a *Vaughn* index detailing the withholdings and providing a basis for each.

Please respond to this appeal within 20 business days in accordance with 5 U.S.C. § 552(a)(6)(A)(ii).

If you have any questions regarding the FOIA Request or this administrative appeal, please contact the undersigned by email at watkins@adduci.com or by telephone at 202-407-8647.

**Finally, please change your records to reflect that all further communications concerning the above-identified FOIA request and this appeal should be directed to the undersigned attorney: Seth A. Watkins, Esq., Adduci, Mastriani & Schaumberg LLP, 1133 Connecticut Avenue, NW, Washington, DC 20036, email watkins@adduci.com, tel. (202) 407-8647.**

Very truly yours,  
/s/  
Seth A. Watkins, Ph.D.

Attachments

# **EXHIBIT A**



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

November 30, 2014

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

Via E-Mail: [uscis.foia@dhs.gov](mailto:uscis.foia@dhs.gov)

**Re: Freedom of Information Act Request**

Dear Sir or Madam:

The American Immigration Lawyers Association (AILA) submits this letter as a request for information under the Freedom of Information Act (FOIA), 5 USC §552, et. seq.

**RECORDS SOUGHT**

AILA requests any and all records<sup>1</sup> which were prepared, received, transmitted, collected and/or maintained by U.S. Citizenship and Immigration Services (USCIS) and which relate or refer in any way to the following:

- USCIS operating procedures and policies on the administration of the annual H-1B random selection process (or “lottery,”), as described in 8 CFR §214.2(h)(8)(ii)(B), (C), and (D) including, but not limited to:
  - Records that describe and/or explain the intake procedures for cap-subject cases, including how such cases are identified upon intake, received, and processed (either accepted or rejected) at each filing location;
  - Records that describe the reasons why a cap-subject petition might be rejected upon receipt, returned to the petitioner, and not included in the lottery pool;
  - Records which explain how USCIS determines when it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 regular H-1B visas and 20,000 master’s cap H-1B visas for the relevant fiscal year, including how USCIS determines the “final receipt date;”

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<sup>1</sup> The term “records” as used herein includes all records or communications preserved in electronic or written form, including but not limited to 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, technical manuals, training manuals, technical specifications, training materials or 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.

- Records that describe and/or explain how the random selection process is conducted for the master's cap lottery, how such petitions are randomly selected, how each service center is notified of lottery "winners," and how master's cap cases are then reassigned to the regular cap lottery;
- Records that describe and/or explain how the random selection process is conducted for the regular cap lottery, how such petitions are randomly selected, and how each service center is notified of lottery "winners."
- Records that describe how USCIS tracks and counts unused H-1Bs for each fiscal year and takes into account such unused numbers during the appropriate fiscal year in accordance with 8 CFR §214.2(h)(8)(ii)(C).

Founded in 1946, the American Immigration Lawyers Association (AILA) is an association of over 13,000 attorneys and law professors who practice and teach immigration law. AILA is a nonpartisan, not-for-profit organization that provides its members with continuing legal education and information, primarily through a public website that is updated daily with the latest immigration news and information, including agency guidance, interpretations and policy memoranda. AILA publishes newsletters and other print and electronic publications, and is contacted frequently by national print and news media. AILA seeks the requested information for the purpose of disseminating it to its members and the general public and not for the purpose of commercial gain.<sup>2</sup> As such, AILA is a "representative of the news media,"<sup>3</sup> and fees associated with the processing of this request should therefore be "limited to reasonable standard charges for document duplication." 5 USC §552(a)(4)(A)(ii)(II). The records requested are not sought for commercial use, and AILA plans to disseminate the information disclosed as a result of this FOIA request through the channels described above.

Pursuant to 5 USC §552(a)(4)(A)(v), please inform us if said charges will exceed \$25.00. If you have any questions, please feel free to contact me at (202) 507-7600 or by e-mail at [blawrence@aila.org](mailto:blawrence@aila.org).

Sincerely,



Betsy Lawrence  
Director of Liaison  
American Immigration Lawyers Association

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<sup>2</sup> The term "commercial use request" refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester. *See* 52 Fed. Reg. 10011, 11017-18 (Mar. 27, 1987).

<sup>3</sup> The term "representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. *See* 52 Fed. Reg. at 11018.

# **EXHIBIT B**



U.S. Citizenship  
and Immigration  
Services



COW2014000817

December 4, 2014

Betsy Lawrence  
American Immigration Lawyers Association  
1331 G Street, Ste 300  
Washington, DC 20005

Dear Betsy Lawrence:

We received your request on December 04, 2014 for information relating to operating procedures for administration of H-1B. Specifically the following:

USCIS operating procedures and policies on the administration of the annual H-1B random selection process (or "lottery,"), as described in 8 CFR §214.2(h)(8)(ii)(B), (C), and (D) including, but not limited to:

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- Records that describe and/or explain how the random selection process is conducted for the master's cap lottery, how such petitions are randomly selected, how each service center is notified of lottery "winners," and how master's cap cases are then reassigned to the regular cap lottery;
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Your request is being handled under the provisions of the Freedom of Information Act (5 U.S.C. § 552). It has been assigned the following control number: COW2014000817. Please cite this number in all future correspondence about your request.

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COW2014000817

Page 2

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.3(c)), your request is deemed to constitute an agreement to pay any fees that may be chargeable up to \$25.00. Fees may be charged for searching for records sought at the respective clerical, professional, and/or managerial rates of \$4.00/\$7.00/\$10.25 per quarter hour, and for duplication of copies at the rate of \$.10 per copy.

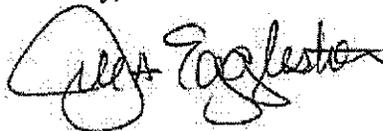
The statutory time limits for processing your request cannot be met because of unusual circumstances, and it will be necessary to extend the time limits for processing by ten working days due to the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request. In the interim if you have questions about the status of your request, you may contact Allen Jaynes at 816-350-5500, ext 5095, or by e-mail [Thomas.a.jaynes@uscis.dhs.gov](mailto:Thomas.a.jaynes@uscis.dhs.gov).

This office will be providing your records on a Compact Disc (CD) for use on your personal computer. The CD is readable on all computers through the use of Adobe Acrobat software. A version of Adobe Acrobat will be included on the CD. Your records can be viewed on your computer screen and can be printed onto paper. Only records 15 pages or more are eligible for CD printing. To request your responsive records on paper, please include your control number and write to the above address Attention: FOIA/PA Officer, or fax them to (816) 350-5785.

You may check the status of your FOIA request online, at [www.uscis.gov](http://www.uscis.gov). Click on "FOIA Request Status Check" located on the left side of the web page under "Other Services", and follow the instructions.

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Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Eggleston". The signature is fluid and cursive, with a large initial "J" and "E".

Jill A. Eggleston  
Director, FOIA Operations

# **EXHIBIT C**



**U.S. Citizenship  
and Immigration  
Services**

April 14, 2015

**COW2014000817**

Betsy Lawrence  
American Immigration Lawyers Association  
1331 G Street, Suite 300  
Washington, DC 20005

Dear Betsy Lawrence:

This is in response to your Freedom of Information Act/Privacy Act (FOIA/PA) request received in this office December 04, 2014 regarding the operating procedures for administration of H-1B.

Specifically, you have requested USCIS operating procedures and policies on the administration of the annual H-1B random selection process (or "lottery,"), as described in 8 CFR §214.2(h)(8)(ii)(B), (C), and (D) including, but not limited to:

- Records that describe and/or explain the intake procedures for cap-subject cases, including how such cases are identified upon intake, received, and processed (either accepted or rejected) at each filing location;
- Records that describe the reasons why a cap-subject petition might be rejected upon receipt, returned to the petitioner, and not included in the lottery pool;
- Records which explain how USCIS determines when it has received a sufficient number of H-1B petitions to reach the statutory cap of 65,000 regular H-1B visas and 20,000 master's cap H-1B visas for the relevant fiscal year, including how USCIS determines the "final receipt date;"
- Records that describe and/or explain how the random selection process is conducted for the master's cap lottery, how such petitions are randomly selected, how each service center is notified of lottery "winners," and how master's cap cases are then reassigned to the regular cap lottery;
- Records that describe and/or explain how the random selection process is conducted for the regular cap lottery, how such petitions are randomly selected, and how each service center is notified of lottery "winners."
- Records that describe how USCIS tracks and counts unused H-1B's for each fiscal year and takes into account such unused numbers during the appropriate fiscal year in accordance with 8 CFR §214.2(h)(8)(ii)(C).

We have completed the review of all documents and have identified 521 pages that are responsive to your request. Enclosed are 166 pages released in their entirety and 228 pages released in part. We are withholding 127 pages in full. In our review of these pages, we have determined that they contain no reasonably segregable portion(s) of non-exempt information. We have reviewed and have determined to release all information except those portions that are exempt pursuant to 5 U.S.C. § 552 (b)(3), (b)(4), (b)(5) and (b)(6) of the FOIA.

COW2014000817

Page 2

The following exemptions are applicable:

Freedom of Information Act 5 U.S.C. § 552 (b)(3)

Exemption (b)(3) provides protection for information specifically exempted from disclosure by statute, provided that such statute establishes particular criteria for withholding or refers to particular types of matters to be withheld. The statute allows us to withhold this information pursuant to 26 U.S.C. 6103 of the Internal Revenue Code.

Freedom of Information Act 5 U.S.C. § 552 (b)(4)

Exemption (b)(4) protects trade secrets and commercial or financial information that is privileged or confidential. The types of documents and/or information we have withheld may consist of unit pricing, business sales statistics; research data; technical designs; customer and supplier lists; profit and loss data; overhead and operating costs; and information on financial condition.

Freedom of Information Act 5 U.S.C. § 552 (b)(5)

Exemption (b)(5) provides protection for inter-agency or intra-agency memorandums or letters, which would not be available by law to a party other than an agency in litigation with the agency. The types of documents and/or information that we have withheld under this exemption may consist of documents containing pre-decisional information, documents or other memoranda prepared in contemplation of litigation, or confidential communications between attorney and client.

Freedom of Information Act 5 U.S.C. § 552 (b)(6)

Exemption (b)(6) permits the government to withhold all information about individuals in personnel, medical and similar files where the disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. The types of documents and/or information that we have withheld may consist of birth certificates, naturalization certificates, drivers' licenses, social security numbers, home addresses, dates of birth, or various other documents and/or information belonging to a third party that are considered personal.

In accordance with Department of Homeland Security Regulations (6 C.F.R. § 5.4(a)), USCIS uses a "cut-off" date to delineate the scope of a FOIA request by treating records created after that date as not responsive to that request. Therefore, in determining which records are responsive to your request, we will only include records in the possession of this agency as of December 4, 2014, the date we began the search for records.

The enclosed record consists of the best reproducible copies available. Certain pages contain marks that appear to be blacked-out information. The black marks were made prior to our receipt of the file and are not information we have withheld under the provisions of the FOIA or PA.

If you wish to appeal this determination, you may write to the USCIS FOIA/PA Appeals Office, 150 Space Center Loop, Suite 500, Lee's Summit, MO 64064-2139, within 60 days of the date of this letter. Both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

The National Records Center does not process petitions, applications or any other type of benefit under the Immigration and Nationality Act. If you have questions or wish to submit documentation relating to a matter pending with the bureau, you must address these issues with your nearest District Office.

COW2014000817

Page 3

All FOIA/PA related requests, including address changes, must be submitted in writing and be signed by the requester. Please include the control number listed above on all correspondence with this office. Requests may be mailed to the FOIA/PA Officer at the PO Box listed at the top of the letterhead, or sent by fax to (816) 350-5785. You may also submit FOIA/PA related requests to our e-mail address at [uscis.foia@uscis.dhs.gov](mailto:uscis.foia@uscis.dhs.gov).

Sincerely,



Jill A. Eggleston  
Director, FOIA Operations

Enclosure(s)

# EXHIBIT 5



AMERICAN  
IMMIGRATION  
LAWYERS  
ASSOCIATION

June 18, 2015

Alan D. Hughes, Associate Counsel  
Commercial and Administrative Law Division  
Department of Homeland Security  
Citizenship and Immigration Services  
HQ FOIA/PA Appeals  
150 Space Center Loop, Suite 500  
Lee's Summit, MO 64064-2139

**Re: FOIA Administrative Appeal APP2015000873  
for Request Control No. COW2014000817**

Dear Mr. Hughes,

Please be advised that we have engaged the following individual and law firm to represent our interests in the above-identified matter:

Seth A. Watkins, Esq.  
Adduci, Mastriani & Schaumberg LLP  
1133 Connecticut Avenue, NW  
Washington, DC 20036  
email [watkins@adduci.com](mailto:watkins@adduci.com)  
tel. (202) 407-8647

Please change your records to reflect that all further communications concerning the above-identified FOIA request and administrative appeal should be directed to him.

Thank you for your assistance with this matter.

Sincerely,

Betsy Lawrence, Esq.  
Director, Liaison  
American Immigration Lawyers Association

# EXHIBIT 6

U.S. Department of Homeland Security  
HQ FOIA/PA Appeals  
150 Space Center Loop, Suite 500  
Lee's Summit, MO 64064-2139



U.S. Citizenship  
and Immigration  
Services

July 16, 2015

APP2015001099

Seth Watkins  
Adduci, Mastriani and Schaumberg  
1133 Connecticut Avenue, NW  
Washington, DC 20036

Dear Mr. Watkins:

Re: COW2014000817

This is to advise you that we received your administrative appeal regarding the action by the National Records Center relating to Operating Procedures for Administration of H-1B, on December 04, 2014.

We have the responsibility of adjudicating appeals and will make every effort to respond to your request as quickly as possible. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. ***We have assigned control number APP2015001099 to your appeal. Please mention this number in any future correspondence to this office regarding this matter.***

USCIS no longer collects Social Security Numbers in connection with FOIA or PA requests. When forwarding to us any documents related to your request, please ensure any Social Security Numbers on the documents are blanked out or removed.

We will notify you of the decision on your appeal as quickly as possible. However, we must first contact the National Records Center and obtain the background material on your request. If you have further questions, please direct your inquiry to this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan D. Hughes".

Alan D. Hughes, Associate Counsel  
Commercial and Administrative Law Division  
Department of Homeland Security  
Citizenship and Immigration Services

# EXHIBIT 7



**U.S. Citizenship  
and Immigration  
Services**

July 21, 2015

**APP2015001099**

Seth Watkins  
Adduci, Mastriani and Schaumberg  
1133 Connecticut Avenue, NW  
Washington, DC 20036

Dear Mr. Watkins:

Re: COW2014000817

You appealed the action of the National Records Center regarding your request for access to records pertaining to Operating Procedures for Administration of H-1B, dated December 04, 2014. The original determination of the National Records Center was to withhold 228 pages in part and 127 in full.

After careful consideration of your appeal, and as a result of discussions with the National Records Center, we have decided to release 218 additional pages to you, copies of which are enclosed. We are releasing 217 pages in part and 1 in full. We have redacted information pursuant to 5 U.S.C. §§ 552 (b)(4), (b)(5) and (b)(6).

On the remaining pages, we found that the National Records Center properly withheld certain information that is protected from disclosure. We have determined that this information is not appropriate for discretionary release.

In your appeal letter, you requested a Vaughn index; however, at this stage a Vaughn index is not given or required. *See Vaughn v. Rosen*, 484 F. 2d 820 (D.C. Cir. 1973). Your request that we itemize and justify each item of the information withheld is denied. You are not entitled to such a listing at the administrative stage of processing FOIA requests and appeals. *See Judicial Watch v. Clinton*, 880 F.Supp. 1,11 (D.C. Cir. 1995).

If you are dissatisfied with our action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B). The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. The OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at [ogis@nara.gov](mailto:ogis@nara.gov) or call 1-877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan D. Hughes".

Alan D. Hughes, Associate Counsel  
Commercial and Administrative Law Division  
Department of Homeland Security  
Citizenship and Immigration Services