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May 3, 2012

VIA FACSIMILE

**U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010
Facsimile: 816-350-5785**

**Ms. Sabrina Burroughs
Director, Disclosure Policy & FOIA Program Development
The Privacy Office
U.S. Department of Homeland Security
245 Murray Drive, SW, Building 410
STOP-0655
Washington, DC 20528-0655
Facsimile: 703-235-0443**

Re: Freedom of Information Act Request

Dear Sir or Madam:

The American Immigration Council (AIC) submits this letter as a request for information under the Freedom of Information Act (FOIA), 5 U.S.C. §552, *et. seq.*

1. RECORDS SOUGHT

AIC requests any and all records¹ issued by U.S. Citizenship and Immigration Services (USCIS) and/or the Department of Homeland Security (DHS), or used by USCIS and/or DHS, from January 2008 to the present, to instruct, train and/or guide (1) Immigration Service Officers; or (2) employees of the Department of State, including but not limited to consular officers; on the adjudication of L-1B intracompany transferee petitions, including but not limited to the interpretation of the term "specialized knowledge."

AIC requests that any records that exist in electronic form be provided in their native electronic format on a compact disc, digital video disk, or equivalent electronic medium. Requesters request that any documents stored in Portable Document Format ("PDFs") be provided as individual files in a searchable PDF format. Finally, Requesters request that reasonable metadata be transmitted along with files, including but not limited to

¹ The term "records" as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audiotapes, e-mails, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, manuals, technical specifications, training manuals, and studies.

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maintaining parent-child relationships between emails and their attachments, author information, date and time stamp information. If any of the requested records or information are not kept in a succinct format, we request the opportunity to view the documents in your offices.

All requested records that are responsive may be provided with personally identifying details redacted. FOIA exempts information from disclosure if that disclosure would lead to an unwarranted invasion of privacy. 5 U.S.C. § 552(b)(6). Determination of this exemption requires “a balancing of the public’s interest in obtaining the information against any possible invasions of privacy which would result from disclosure.” *Burkins v. United States*, 865 F. Supp. 1480, 1502 (D. Colo. 1994). The Supreme Court has held that this balancing act does not preclude the disclosure of military records when names and other private details are redacted. *See, e.g., Dep’t of the Air Force v. Rose*, 425 U.S. 352 (1976). Requesters expect the release of all segregable portions of otherwise exempt material.

If under applicable law any of the information requested is considered exempt, please describe in detail the nature of the information withheld, the specific exemption or privilege upon which the information is withheld, and whether the portions of withheld documents containing non-exempt or non-privileged information have been provided.

2. REQUEST FOR WAIVER OF ALL COSTS

AIC requests that all fees associated with this FOIA request be waived. AIC is entitled to a waiver of all costs because disclosure of the information 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) (Records furnished without charge or at a reduced rate if the information is in the public interest, and disclosure is not in commercial interest of institution). In addition, AIC has the ability to widely disseminate the requested information. *See Judicial Watch v. Rossotti*, 326 F.3d 1309 (D.C. Cir. 2003) (finding a fee waiver appropriate when the requester explained, in detailed and non-conclusory terms, how and to whom it would disseminate the information it received).

i. Disclosure of the Information Is in the Public Interest

AIC educates citizens about the enduring contributions of America's immigrants, supports sensible and humane immigration policies that reflect American values, and works to ensure that immigration laws are enacted and implemented in compliance with fundamental constitutional and human rights. AIC’s Immigration Policy Center (IPC) and Legal Action Center (LAC) help carry out this mission by reaching out to the general public to promote a better understanding of immigration law, policy and practice. The IPC researches issues related to immigration (such as the impact of immigration on the economy, jobs and crime), and regularly provides information to leaders on Capitol Hill and the media. The LAC works with other immigrants’ rights organizations and immigration attorneys across the United States to advance the fair administration of immigration laws, including those relating to the adjudication of employment-based visa petitions.

L-1B petitions enable U.S. employers to transfer overseas employees with “specialized knowledge” into the United States for up to five years. Since 2008, the LAC has received numerous reports of inconsistencies in adjudication of L-1B nonimmigrant petitions submitted to USCIS service centers, as well as L-1B visa applications submitted to U.S. consulates abroad. These reports call into question the accuracy and clarity of the instruction, training and guidance materials created by USCIS. The corresponding increase in denials of L-

1B petitions over the same period (which, according to USCIS data, rose from 7 percent in FY 2007 to 27 percent in FY 2011) harms the competitiveness of U.S. businesses and encourages them to move jobs and resources outside the United States.

Disclosure of the requested information will contribute significantly to public understanding of the ability of U.S. companies to bring skilled foreign nationals to the United States. The disclosed records will also inform attorneys who represent U.S. employers seeking to sponsor such foreign nationals, the foreign nationals themselves, and other members of the public who are concerned with immigration agency adjudications and/or the impact of employment-based visa denials on U.S. businesses.

AIC has the capacity and intent to disseminate widely the requested information to the public. To this end, the LAC and the IPC will post the information on the AIC website, a website that is accessible by any member of the public. AIC's website receives more than 115,000 monthly page views (or 1.5 million yearly page views), and information available on the website is regularly shared and reposted on other websites with large audiences, including Altnet, a website with 2.3 million monthly visitors. AIC also will publish a summary of the information received through an IPC fact sheet, the LAC quarterly newsletter, and an IPC blog. IPC fact sheets are directly distributed to 26,000 recipients, the LAC newsletter is directly distributed to 12,000 recipients, and the IPC blog is distributed to 26,000 recipients. These publications also are available on the AIC website. Finally, AIC has regular contact with national print and news media and plans to continue to share information gleaned from FOIA disclosures with interested media.

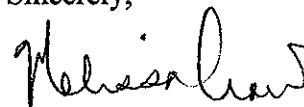
ii. Disclosure of the Information Is Not Primarily in the Commercial Interest of the Requester

AIC is a 501(c)(3), tax-exempt, not-for-profit educational, charitable organization. Immigration attorneys, noncitizens and any other interested member of the public may obtain information about immigration-related issues on AIC's frequently updated website. AIC seeks the requested information for the purpose of disseminating it to members of the public who access AIC's website and other AIC publications, and not for the purpose of commercial gain.

Please inform us if the charges for this FOIA production will exceed \$25.00.

Thank you in advance for your response to this request within twenty working days, as FOIA requires. See 5 U.S.C. § 552(a)(6)(A)(i). If you have any questions, please feel free to contact me at (202) 507-7523.

Sincerely,



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