

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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PUBLIC CITIZEN, INC.,)
1600 20th Street NW)
Washington, DC 20009,)
)
Plaintiff,)
)
v.	Civil Action No. 18-1048)
)
UNITED STATES DEPARTMENT OF)
HOMELAND SECURITY,)
301 7th Street SW)
Washington, DC 20528,)
)
and)
)
UNITED STATES CITIZENSHIP AND)
IMMIGRATION SERVICES,)
20 Massachusetts Avenue NW)
Washington, DC 20529,)
)
Defendants.)
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This action is brought under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to compel the Department of Homeland Security (DHS) and the United States Citizenship and Immigration Services (USCIS), a component of DHS, to produce records responsive to a FOIA request for records concerning certain employment contracts for foreign workers submitted to USCIS for its review.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B). Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Public Citizen is a national non-profit public interest organization founded in 1971. Among other things, Public Citizen works to promote protections for workers and consumers, and collects and disseminates information to advance government and corporate accountability. Public Citizen submitted the FOIA request at issue.

4. Defendant DHS is an agency of the United States, and defendant USCIS is a component of defendant DHS. Defendants have possession of and control over the records plaintiff seeks.

STATEMENT OF FACTS

5. On September 8, 2017, Public Citizen submitted a FOIA request to USCIS, seeking copies of certain employment contracts submitted to USCIS for its review as part of the H-1B, EB-3, and H-1C visa programs, as well as records relating to USCIS's processes and policies for conducting such reviews.

6. Specifically, Public Citizen requested:

- 1) All employment contracts submitted by, or on behalf of, citizens of Canada, the United Kingdom, the Philippines, and India seeking H-1B or EB-3 visas to work as nurses or physical therapists in the United States from 2010 to the present.
- 2) All employment contracts submitted by, or on behalf of, citizens of Canada, the United Kingdom, the Philippines, and India seeking H-1C visas to work as nurses in the United States from 2008 to 2010.
- 3) All documents stating, concerning, summarizing, analyzing, or assessing U.S. Citizenship and Immigration Services's (USCIS) process or policy for reviewing contracts submitted by, or on behalf of, citizens of foreign countries seeking visas to work as nurses in the United States. This request is limited to documents (a) created or received by USCIS between January 1, 2008, and the date of processing this request or (b) that state, concern, summarize, analyze, or assess the USCIS process or policy in effect between January 1, 2008, and the date of processing this request.

7. Public Citizen included a request for a waiver of all fees in its FOIA request.

8. By email dated September 18, 2017, USCIS responded to Public Citizen's request and sought clarifying information regarding the requests.

9. Public Citizen provided answers to USCIS's questions on September 19, 2017, and, in response to a further email from USCIS, agreed to limit the scope of the request to a four-year period on September 20, 2017.

10. USCIS has not responded in the intervening seven months.

11. On January 4, 2018, Public Citizen requested USCIS provide it with an update as to the status of the request. USCIS did not respond.

12. On February 1, 2018, Public Citizen requested USCIS provide it with an update as to the status of the request. USCIS did not respond.

13. More than 20 working days have passed since defendants received Public Citizen's FOIA request, and defendants have neither made a final determination nor produced any records in response to Public Citizen's request.

**CAUSE OF ACTION
(FOIA – Failure to Disclose Responsive Records)**

14. Under 5 U.S.C. § 552(a)(6)(C)(i), Public Citizen has exhausted all administrative remedies with respect to its September 8, 2017 FOIA request.

15. Public Citizen has a statutory right under FOIA, 5 U.S.C. § 552(a)(3)(A), to the records it requested, and there is no legal basis for DHS's and USCIS's failure to disclose them.

PRAYER FOR RELIEF

WHEREFORE, Public Citizen requests that this Court:

(1) Declare that defendants' withholding of the requested records is unlawful;

(2) Order defendants to make the requested records available to Public Citizen at no cost and without delay;

(3) Award Public Citizen its costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and

(4) Grant such other and further relief as this Court may deem just and proper.

Dated: May 3, 2018

Respectfully submitted,

/s/ Adam R. Pulver
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