March 8, 2017

Via DHS-CBP Online FOIA Request Form

To: U.S. Customs and Border Protection
   Freedom of Information Act/Privacy Act Officer

Re: Request under Freedom of Information Act (FOIA)
   Expedited Processing Requested
   Fee Waiver & Limitation Requested

Dear FOIA-Privacy Act Officer:

On behalf of our client, the Arab-American Anti-Discrimination Committee (“ADC”), the Law Office of R. Andrew Free and Siskind Susser, P.C. hereby respectfully submit this Freedom of Information Act (FOIA) request to the United States Customs and Border Protection agency (“CBP”), for agency records as defined by FOIA and as described below. ADC seeks expedited processing of this request and waiver of associated fees, or if not waiver, then limitation of associated fees.

A. Records Requested

   Specifically, ADC requests the following agency records created by or maintained in the possession, custody, or control of CBP:

   (1) All agency records relating to each revocation, suspension, or termination of Global Entry System (GES) participation from November 9, 2016 to the date of the agency’s response to this request.

   (2) All agency records showing the annual total of revocations, suspensions, or terminations of (GES) permissions between January 1, 2012 and November 8, 2017.
(3) All agency records showing reversal or confirmation of CBP’s GES revocation decisions by the CBP Ombudsman’s office.

(4) Any agency policy, practice, memorandum, training, guidance, communication, or other similar record created on or after November 9, 2017 relating to the suspension, revocation, or termination of GES.

(5) Any agency policy, practice, memorandum, training, communication or other similar record created on or after November 9, 2017 that alters, modifies, or in any way affects CBP’s prior practices and policies with respect to GES screening, investigation, or revocation.

(6) Any agency records created on or after November 9, 2017 relating to operation or functioning of the GES program containing any of the following the words or phrases, whether in their singular or plural forms: “Muslim”, “Arab”, “Ban”, “Muslim Ban”, or “Travel Ban”.

B. About the Requestor

ADC is a civil rights organization committed to defending the rights of people of Arab descent and promoting their rich cultural heritage. ADC is the largest Arab American grassroots organization in the United States. Founded in 1980 by former U.S. Senator James Abourzek, ADC’s objectives include combating stereotypes and discrimination against and affecting the Arab American community in the United States, serving as a public voice for the Arab American community in the United States on domestic and foreign policy issues, and educating the American public in order to promote great understanding of Arab history and culture. ADC engages in wide-ranging advocacy, education, and organizing to defend and promote human rights and civil liberties of Arab Americans and other persons of Arab heritage.

C. About the Global Entry System

The Global Entry System is a trusted traveler program administered by the United States Customs and Border Protection agency. GES “expedites the movement of low-risk air travelers into the United States by providing an alternate inspection process for pre-approved, pre-screened travelers.” 8 C.F.R. § 235.12(a) (2012). This system allows participants a faster and easier entry into the United States in selected airports across the United States. Id. Members enter the United States through automatic kiosks at select airports.

To be eligible, applicants for the program must meet a number of requirements including status as a United States citizen, national, or legal permanent resident, and hold a valid travel document, among a few other requirements. 8 C.F.R. 235.12(b). An approved participant may be suspended or removed (revoked) from the program for reasons that are listed in the regulation, the most broad of which states revocation can occur if “CBP, at its sole discretion,
determines that such action is otherwise necessary.” 8 C.F.R. 235.12(j). Historically, less than one percent of GES participants were subject to revocation.¹

D. GES Revocations of Arabs and Muslims Following the 2016 Presidential Election and Acceleration of Reports Coinciding with Muslim Ban 1.0

ADC has received reports that immediately following the presidential election in November, persons who were granted access to the GES had the privilege revoked by CBP. These are not isolated incidents, it appears, but rather, part of a larger pattern in which GES participants with Arab or Muslim names or ancestry have been singled out for revocation in the absence of any material change in their risk profile. Physicians, bankers, students, and businesspeople—all long-time holders of GES status—have suddenly and inexplicably faced new scrutiny. The vast majority of those reporting revocation are U.S. citizens.

Beginning in late January 2017, in the wake of Presidential Executive Orders regarding border security, immigration, and travel targeting legal immigrants, refugees, and Arab or Muslim persons, tens of thousands of people across the country actively engaged in protest and direct action in airports around the country.² Pro bono attorneys and grassroots organizations like ADC sprung into action to help arriving travelers avoid detention and banishment in the face of a surprise, sweeping Presidential order limiting many individuals’ travel into the United States.


States. Lawsuits were filed from coast to coast, and nearly every court to rule found the Muslim Ban likely violated the law. As a consequence, the Administration abandoned it. The President issued a modified Executive Order on March 6, 2017—this time targeting six Muslim-majority countries rather than seven—“but the president’s revisions did little to halt criticism from Democrats and immigrant rights advocates, who predicted a renewed fight in the courts.”

ADC is aware of ongoing, public allegations of individuals being identified, selected, scrutinized, and treated inappropriately by employees and agencies of the federal government—and specifically CBP—because they are Arab or Muslim or are believed to be Arab or Muslim. (Indeed, while campaigning for the presidency, the current U.S. President “called for ‘a total and complete shutdown’ of Muslim immigration to the US.”) For example, complaints were filed with the CBP in January 2017, alleging that Muslim Americans were unduly scrutinized and invasively questioned regarding their religious beliefs and political opinions.

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As reported in multiple news outlets, these abuses include CBP’s denial or revocation of GES privileges. More generally, individuals who have GES membership are nonetheless being detained and questioned. For example, NASA employee Sidd Bikkannavar was “detained by [CBP] and pressured to give the CBP agents his phone and access PIN,” even though Mr. Bikkannavar was a current Global Entry member.

Unsurprisingly, then, public interest is presently heightened regarding CBP’s multi-faceted operations, including the profiling of persons based on religion, ethnicity, or nationality, the GES, and CBP’s access and use of travelers’ digital information.

E. ADC requests, and CBP should provide, expedited processing for this request, pursuant to FOIA.

ADC is primarily engaged in disseminating information, as contemplated by FOIA, including information about the federal government’s activities. As explained above, ADC also has a compelling need for the records requested, because of the present, genuine, and serious urgency to inform the public about the federal government’s activities which are referenced, documented, and explained in the records requested, such as activities regarding GES,


See, e.g., www.adc.org
individuals’ and groups’ travel privileges, statuses, and monitoring, and associated decision-making, record-keeping, and changes in practice and policy. Simply put, ADC plans to analyze, discuss, and disseminate to the public—at no cost to the public—the information obtained by this Request. The records requested are not sought for commercial use.

F. ADC is entitled to a waiver of fees for this request, or, if not fully waived, then a limitation on fees for this request, pursuant to FOIA.

ADC requests a waiver of all fees associated with this request and the records provided in response, because disclosure of the requested records and information contained therein is in the public interest, and the disclosure is likely to contribute significantly to public understanding of the government’s operations and activities. Again, ADC does not seek the records for commercial use, and will disseminate the information to the public at no cost to the public. Moreover, ADC qualifies as a representative of the news media based on its information dissemination activities. Thus, ADC is entitled to a fee waiver.

Please provide all records in their native format, preserving and producing any associated metadata.

If you have any questions or require further information, please do not hesitate to contact me at 844-321-3221 or Andrew@ImmigrantCivilRights.com

I AFFIRM THAT THE INFORMATION PROVIDED SUPPORTING THE REQUEST FOR EXPEDITED PROCESSING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Very truly yours,

R. Andrew Free
Co-Counsel for ADC