

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

September 6, 2023

Ms. Jacqueline Stevens
601 University Place, 2d floor
Political Science Department
Evanston, IL 60208

RE: Stevens v. ICE 20-cv-2725
ICE FOIA Case Number 2020-ICLI-00042
Supplemental Release

Dear Ms. Stevens:

This letter is a supplemental response to your client's Freedom of Information Act (FOIA) requests to U.S. Immigration and Customs Enforcement (ICE). Your client seeks records relating to the following Freedom of Information Act requests: 2018-ICFO-56530, 2020-ICFO-18634, 2019-ICFO-33429, 2019-ICFO-29171, 2018-ICFO-59138, and 2019-ICFO-24680. ICE has considered your request under the FOIA, 5 U.S.C. § 552.

For this production, ICE is making a discretionary re-release of 199 pages of records. ICE has reviewed the pages and determined that 77 pages will be released in full and portions of the remaining 122 pages will be withheld pursuant to FOIA Exemptions (b)(4), (b)(6), (b)(7)(C) and (b)(7)(E) as described below. The pages will retain their original Bates numbers.

FOIA Exemption 4 protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential. This exemption covers two categories of information in federal agency records: (1) trade secrets; and (2) information that is commercial or financial, obtained from a person (which may include corporations or state governments), and privileged or confidential, which is both customarily and actually treated as private by the submitter of the information. *See Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2362-63 (2019). I have reviewed the responsive documents, the submitter's objections to release, and relevant case law, and I have determined that portions of the responsive records are exempt from disclosure under subsection (b)(4) of the FOIA and must be withheld in order to protect the submitter's proprietary interests.

ICE has applied FOIA Exemptions 6 and 7(C) to protect from disclosure the personally identifiable information of DHS employees and third parties contained within the records.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy

interests of the non-public-facing individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes note of the strong interests of individuals, whether they are suspects, witnesses, investigators, or individuals performing their official duties in connection with a law enforcement agency, in not being unwarrantably associated with alleged criminal activity or becoming targets for revenge by begrudged individuals. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate. As such, I have determined that the privacy interest in the identities of the non-public-facing individuals in the records you have requested clearly outweigh any minimal public interest in disclosure of the information. Please note that any private interest you may have in that information does not factor into this determination.

FOIA Exemption 7(E) protects records compiled for law enforcement purposes, the release of which would disclose techniques and/or procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law. I have determined that disclosure of certain law enforcement sensitive information contained within the responsive records could reasonably be expected to risk circumvention of the law. Additionally, the techniques and procedures at issue are not well known to the public.

If you have any questions about this letter, please contact Assistant United States Attorney Alex Hartzler at Alex.Hartzler@usdoj.gov.

Sincerely,

Marcus K. Francis Sr.
Supervisory Paralegal Specialist

Enclosure: 199 pages

Factor 3. Price (VOL. III)

The Government will conduct its price analysis using one or more of the techniques specified in FAR 15.404-1(b). Offerors must propose a price and professional compensation benefits.

The Price Proposal will consist of one six-month base and six one-month option periods. For evaluation purposes only, the Government will evaluate the grand total of all CLINs. The evaluated price will be based upon the provision of a monthly rate for guaranteed minimum of 392 detainee beds each day (i.e., FPC capacity of 392) and a bed day rate for detention services for the housing and care of up to an additional 320 detainees above the guaranteed minimum (i.e. Florence Staging Facility capacity of 320). Offerors shall propose a monthly rate for CLINs X002A which assumes full capacity at FSPC and a bed day rate for detainees in custody above the guaranteed minimum for CLINs X002B. More specifically, the Government will add up the amounts for each CLIN (Quantity X Unit Price = Amount) as follows:

CLIN 0001	Quantity X Unit Price =	Amount
CLIN 0002	Quantity X Unit Price =	Amount
CLIN 0003	Quantity X Unit Price =	Amount
↓	↓	↓
CLIN 6012	Quantity X Unit Price =	<u>Amount</u>

It is this grand total amount above which will be evaluated.

Compensation Plan for Professional Employees: For the purpose of reviewing compensation in accordance with FAR 52.222-46, vendors are required to submit the narratives and supporting documentation described below. The Government does not have access to the compensation paid by the predecessor contractor. Accordingly, compensation paid on the preceding contract will not be used for evaluating realism of the compensation proposed by vendors.

Vendors are required to provide narratives fully describing the total compensation plans, including salaries and fringe benefits, proposed for each labor category. The narratives shall clearly describe each element of the compensation by category; such as salaries, health benefits, vacation, sick, holiday, personal time, 401k/pension, bonuses, etc. The narratives shall also describe how the compensation is reflected in the price proposal. For example, the narratives should state how the proposed hourly rates are commensurate with the salaries, how the fringe costs were priced into the proposal (i.e. fringe rate, G&A, etc), etc. In addition to the foregoing, the offeror shall describe and provide supporting data demonstrating that the proposed compensation is realistic (i.e. employees are properly and fairly compensated) for the tasks to be performed, considering the technical, educational, and experiential requirements to meet the minimum labor category qualifications. Supporting data will include data such as:

- Payroll data clearly demonstrating compensation (salary and fringe benefits) paid and resumes for current employees performing similar tasks and meeting the minimum qualifications. Note, the Government recognizes that for non-key personnel positions the resumes submitted will be for compensation evaluation purposes only and may not necessarily identify specific employees' vendors intend to assign to the contract.
- Copies of signed Letters of Intent that indicate agreed upon annual salary and compensation (e.g. fringe benefits) along with resumes of the potential candidates meeting the minimum qualifications. Vendors should clearly identify to which labor categories the letters and resumes apply.
- Recognized national and regional compensation surveys. Copies of the pertinent parts of the surveys along with descriptions of how the surveys apply to the referenced labor categories and location, and how the surveys were used (e.g. percentile used, fringe benefit factors, etc.) to develop the proposed compensation should be submitted. Merely stating that a "salary survey" or "market survey" was used will not be sufficient.

Award Selection

The Government intends to award a contract to the Contractor whose proposal for the services described herein conforms to the solicitation and represents the LPTA to ICE.

The Government intends to evaluate proposals and award upon initial proposals, reserving the right to award