

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NEW MEXICO IMMIGRANT LAW CENTER,

Plaintiff,

v.

Case No. 1:26-cv-03471

UNITED STATES IMMIGRATION
AND CUSTOMS ENFORCEMENT,

Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. U.S. Immigration and Customs Enforcement (ICE) relies on federal contracting mechanisms to obtain access to detention facilities within New Mexico to detain noncitizens based on alleged or suspected violations of federal civil immigration law. Plaintiff New Mexico Immigrant Law Center (NMILC) seeks to obtain records regarding the terms of ICE’s current contracting arrangement with CoreCivic, Inc. for detention services in New Mexico and the justifications, if any, that the agency has offered for it.

2. Plaintiff has submitted a FOIA request seeking records that were generated at a pivotal time, when a state law known as the Immigrant Safety Act (House Bill 9) was about to go into effect. Up until that point, ICE had relied on non-competitive pass-through agreements with local counties. These “intergovernmental service agreements” allowed ICE to avoid federal procurement requirements, while the counties subcontracted to private corporations including CoreCivic for the actual detention services that they had committed to providing. The Immigrant Safety Act expressly prohibited public bodies in New Mexico from entering into these kinds of agreements with ICE and required any public bodies with existing ICE contracts to terminate them.

The Immigrant Safety Act was set to go into effect on May 20, 2026—pulling the plug on these sweetheart deals.

3. ICE could have decided, at that point, to comply with standard federal rules and regulations about entering into direct contracts for services. Instead, at the last minute, ICE published a notice announcing that it was awarding a non-competitive sole-source contract to CoreCivic, valued at \$26.2 million, with a potential award amount up to \$36.3 million, for continued detention services at the Cibola County Correctional Center (CCCC) and the Torrance County Detention Facility (TCDF). That contract has not been made public.

4. Federal procurement regulations require that an agency considering a sole-source contract must issue a written justification for avoiding competitive bidding. That written justification must go through an internal approval process. The regulations require that the justification be made available to the public within 14 days of the contract award. ICE has not made the written justification for the CoreCivic contract public.

5. Public concern about privatized federal immigration detention has reached a high water mark. New Mexicans, galvanized by alarm about President Trump's crackdown on immigrant communities, the deployment of the National Guard, and the killing of Renee Good and Alex Pretti, opted to do everything they could to eliminate immigration detention in New Mexico. The Immigrant Safety Act was effectively aimed at getting state and local public bodies out of the business of immigration detention. With ICE pivoting to direct contracting with CoreCivic for the CCCC and the TCDF, the public remains understandably concerned about the circumstances of immigration detention at those facilities. Both the CCCC and the TCDF have serious track records of abuse, misconduct, and harm, including preventable deaths.

6. Because ICE has not made publicly available the sole-source contract with CoreCivic for the CCCC and the TCDF and has not published its justification for avoiding competitive bidding on that contract, New Mexicans are left entirely in the dark as to why this massive for-profit private prison corporation is being authorized to deprive people of their liberty. New Mexicans are unable to scrutinize the terms of the contract or to assess whether CoreCivic is being held to appropriate performance requirements to ensure the health and safety of people detained in its facilities. And New Mexicans are blocked from reviewing whether ICE's internal compliance mechanisms for the contract are a sufficient form of oversight.

7. Plaintiff seeks the production, on an expedited basis, of the requested records, as a *pro bono* legal service provider and non-profit organization engaged in the dissemination of information to the public about governmental operations.

8. This case is about ICE's failure to grant Plaintiff's request for expedited processing and the agency's unlawful withholding of non-exempt records responsive to Plaintiff's FOIA request.

II. JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction over Plaintiff's FOIA claims pursuant to 28 U.S.C. § 1331 (federal question) and 5 U.S.C. § 552(a)(4)(B). Plaintiff's request for declaratory and other relief is properly subject to this Court's subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

10. Venue is proper within this District under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. §§ 1391(b)(1), (b)(2), and (e)(1).

III. PARTIES

11. Plaintiff New Mexico Immigrant Law Center (NMILC) is a 501(c)(3) non-profit organization based in Albuquerque, New Mexico.

12. NMILC's mission is to advance justice and equity by empowering low-income immigrant communities through collaborative legal services, advocacy, and education.

13. NMILC provides legal services to noncitizens who are detained in federal civil immigration custody in both the TCDF and the CCCC, through regular in-facility legal consultation programs, pro se assistance, and direct representation of detained individuals.

14. NMILC's policy staff serve a pivotal role in educating the public on immigration issues, including detention, and advocating for legislative and policy changes. The staff engage regularly with New Mexico's legislators on these issues. NMILC's Director of Policy and Coalition Building, Jessica Martinez, served as an expert witness during committee hearings and floor votes on the Immigrant Safety Act during the 2026 New Mexico state legislative session.¹

15. Timely, complete, and accurate information about ongoing governmental operations is key to the effectiveness of NMILC's legal services and advocacy work.

16. NMILC has constructively exhausted all non-futile administrative remedies.

17. Defendant U.S. Immigration and Customs Enforcement (ICE) is an executive agency component of the U.S. Department of Homeland Security (DHS) and an "agency" within the meaning of 5 U.S.C. § 552(f)(1).

¹ Joshua Bowling, *NM House committee advances bill to ban immigrant detention in NM*, SOURCE NM (Jan. 22, 2026), <https://sourcennm.com/2026/01/22/nm-house-committee-advances-bill-to-ban-immigrant-detention-in-nm/>.

IV. FACTUAL AND LEGAL BACKGROUND

18. The Freedom of Information Act (FOIA) “is a disclosure statute enacted to facilitate public access to Government documents.” *Trentadue v. F.B.I.*, 572 F.3d 794, 796 (10th Cir. 2009) (citing *Campaign for Responsible Transplantation v. F.D.A.*, 511 F.3d 187, 190 (D.C. Cir. 2007)). The FOIA “is to be broadly construed in favor of disclosure....” *Audubon Soc’y v. U.S. Forest Serv.*, 104 F.3d 1201, 1203 (10th Cir. 1997).

19. The FOIA requires an agency, upon the receipt of a request for records which “reasonably describes such records” and complies with the required procedures, to “make the records promptly available” to the requester. 5 U.S.C. § 552(a)(3)(A).

20. The FOIA requires that an agency “determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of [a] request [for records] whether to comply with such request and shall immediately notify the person making such request of [] such determination and the reasons therefor....” 5 U.S.C. § 552(a)(6)(A).

21. The FOIA provides that where “unusual circumstances” exist, as defined in the statute, 5 U.S.C. § 552(a)(6)(B)(iii), the 20-business-day time limit for the agency’s determination may be extended by no more than 10 business days. 5 U.S.C. § 552(a)(6)(B)(i). The agency must notify the requester of the unusual circumstances and the date on which a determination is expected. *Id.*

22. The FOIA requires agencies to promulgate regulations “providing for expedited processing of requests for records,” 5 U.S.C. § 552(a)(6)(E)(i), and requires that agency regulations “ensure [] that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request.” 5 U.S.C. § 552(a)(6)(E)(ii).

23. Where the agency grants expedited processing, the FOIA requires that the agency process the request “as soon as practicable.” 5 U.S.C. § 552(a)(6)(E)(iii).

24. The FOIA specifies that “[a]gency action to deny or affirm denial of a request for expedited processing ..., and failure by an agency to respond in a timely manner to such a request shall be subject to judicial review[.]” 5 U.S.C. § 552(a)(6)(E)(iii).

25. Further, the FOIA states that “[a]ny person making a request to any agency for records ... shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions.” 5 U.S.C. § 552(a)(6)(C)(i); *see also Citizens for Resp. & Ethics in Washington v. Fed. Election Comm’n*, 711 F.3d 180, 189 (D.C. Cir. 2013) (“If the agency does not adhere to FOIA’s explicit timelines, the ‘penalty’ is that the agency cannot rely on the administrative exhaustion requirement to keep cases from getting into court.”).

26. DHS has issued regulations implementing the agency’s obligations under the FOIA, including provisions describing procedures for the processing of FOIA requests on an expedited basis. 6 C.F.R. § 5.5(e).

27. The DHS regulations establish that expedited processing of a FOIA request may be granted on one or more basis, including: “[a]n urgency to inform the public about an actual or alleged federal government activity, if made by a person who is primarily engaged in disseminating information,” or “[a] matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” 6 C.F.R. § 5.5(e)(1).

28. The DHS regulations state that an agency component, such as ICE, “shall notify the requester within ten calendar days of the receipt of a request for expedited processing of its decision whether to grant or deny expedited processing.” 6 C.F.R. § 5.5(e)(4).

29. If the DHS component grants expedited processing, “the request shall be given priority, placed in the processing track for expedited requests, and shall be processed as soon as practicable.” *Id.*

30. The DHS regulations also state that a requester is not required to pursue an administrative appeal of an adverse decision on a request for expedited processing before seeking court review. 6 C.F.R. § 5.8(e).

31. The DHS regulations also include provisions regarding the timing, more generally, for the agency’s responses to FOIA requests. 6 C.F.R. § 5.5(a)–(c).

32. The DHS regulations state that where the agency extends the time limits of the FOIA based on “unusual circumstances,” as defined in the FOIA, the agency “shall, before expiration of the twenty-day period to respond, notify the requester in writing of the unusual circumstances involved and of the date by which processing of the request can be expected to be completed. 6 C.F.R. § 5.5(c).

33. The FOIA allows for federal district courts “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld.” 5 U.S.C. § 552(a)(4)(B).

34. Unlike other litigation where a federal defendant has sixty days to answer or otherwise plead to a complaint, in FOIA litigation, the defendant shall serve an answer or otherwise plead to the complaint within thirty days of service, unless the court otherwise directs for good cause shown. 5 U.S.C. § 552(a)(4)(C).

ICE Detention Contracting Mechanisms

35. ICE uses several mechanisms to obtain the use of detention facilities to detain noncitizens in federal civil immigration custody.

36. First, ICE enters into “intergovernmental service agreements” with state and local public entities. Those state and local public entities may provide detention services directly or may subcontract to a private operator.

37. Second, ICE enters into direct contracts with corporations, such as GEO Group and CoreCivic, for detention services.

38. Third, ICE purchases its own detention facilities and operates them either directly or through a set of contractors.

39. ICE has a division that is primarily responsible for detention procurement and contracting arrangements—the ICE Office of Acquisition Management (OAQ).

40. ICE is required to comply with the Federal Acquisition Regulation (FAR), which sets uniform government-wide standards for procurement and contracting.

41. Section 6.3 of the FAR contains provisions regarding the narrow circumstances under which federal agencies may enter into contracts without “full and open competition.”

42. One of the bases for contracting without a competitive bidding process is when the “services required by the agency are available from only one responsible source” and “no other type of ... services will satisfy agency requirements.” 48 C.F.R. § 6.302–1(a)(2).

43. Even where there is a basis for non-competitive contracting, certain procedures must be followed.

44. A contracting officer is generally prohibited from “commenc[ing] negotiations for a sole source contract” unless the contracting officer justifies the use of such actions in writing and obtains approval. 48 C.F.R. § 6.303–1(a); *see also* 48 C.F.R. § 6.302–1(d).

45. Where the sole-source contract is for an amount exceeding \$30 million, the contracting officer must not only justify the use of the sole-source contract in writing, but must also obtain the approval of a designated official, and make public the justification and related information after the award is issued. 48 C.F.R. § 6.303–1(b).

46. The contracting officer’s justification must “contain sufficient facts and rationale to justify the use of the specific authority cited” for non-competitive contracting. 48 C.F.R. § 6.303–2(a). The FAR sets forth minimum information that shall be included, such as “[a] demonstration that the proposed contractor’s unique qualifications or the nature of the acquisition requires use of the authority cited,” “[a] description of efforts made to ensure that offers are solicited from as many potential sources as is practicable,” and “[a] description by the contracting officer that the anticipated cost to the Government will be fair and reasonable.” 48 C.F.R. § 6.303–2(b). The FAR further sets forth specific minimum requirements for information to be included in the justification for a sole-source contract over \$30 million. 48 C.F.R. § 6.303–2(d).

47. The contracting officer’s written justification for non-competitive contracting must be approved in writing. 48 C.F.R. § 6.304(a). For a proposed contract over \$20 million, the justification must be approved in writing by the head of the procuring agency or a designee. 48 C.F.R. § 6.304(a)(3).

48. The FAR requires that the agency must “make publicly available” the written justification for noncompetitive contracting. The justification must be made publicly available within 14 days after the contract award, unless certain circumstances apply. 48 C.F.R. § 6.305.

49. On September 28, 2026, the DHS Office of Inspector General (OIG) issued a report titled “ICE Did Not Adequately Plan, Procure, and Monitor Detention Space Contracts and Agreements.”²

50. That report found that “ICE did not document justifications for nearly 60 percent of detention requests [DHS OIG] reviewed, valued at \$2.4 billion.”

51. The DHS OIG report also found that “ICE did not adequately justify two contracts without full and open competition” in violation of the FAR’s requirements.

52. The DHS OIG found that one of these non-competitive contracts was a “sole source” contract which DHS OIG found was granted due to “inadequate planning.” A lack of planning is an insufficient reason under the FAR to justify a contract being awarded without full and open competition.

ICE Detention in Torrance and Cibola Facilities

53. ICE entered into an Intergovernmental Service Agreement (IGSA) with Cibola County in 2016 under which Cibola County agreed to detain noncitizens in federal civil immigration custody.

54. Cibola County entered into an agreement with CoreCivic in 2016 to detain noncitizens in the CCCC, located in Milan, New Mexico, pursuant to the IGSA between Cibola County and ICE.

55. The CCCC is owned and operated by CoreCivic.

56. In 2019, ICE entered into an IGSA with Torrance County under which Torrance County agreed to detain noncitizens in federal civil immigration custody.

² DHS Off. of Insp. Gen., No. OIG-26-37, *Final Report: ICE Did Not Adequately Plan, Procure, and Monitor Detention Space Contracts and Agreements* at 2 (Sept. 28, 2026) <https://www.oig.dhs.gov/sites/default/files/assets/2026-09/OIG-26-37-Sep26.pdf>.

57. Torrance County entered into an agreement with CoreCivic in 2019 to detain noncitizens in the TCDF, located in Estancia, New Mexico, pursuant to the IGSA between Torrance County and ICE.

58. The TCDF is owned and operated by CoreCivic.

59. NMILC began providing *pro bono* legal services to individuals in ICE custody at the CCCC in 2017, and at the TCDF in 2019.

60. NMILC's legal services for individuals in ICE custody at the CCCC, and later at the TCDF, have included consultations, orientations, intakes, legal representation for release on parole, legal representation for release on bond, and legal representation on the merits of individuals' immigration proceedings before Asylum Officers and Immigration Judges. NMILC also refers cases for placement with *pro bono* attorneys for representation for habeas corpus petitions and other matters.

61. NMILC is one of the only non-profit organizations providing such services *pro bono* at these detention facilities.

62. NMILC has also engaged regularly in policy advocacy and public education related to conditions, abuse, and mistreatment faced by individuals in ICE custody at the CCCC and the TCDF, including by attending county commission meetings and providing public comment, issuing press releases, speaking with news media, offering expert testimony during legislative committee hearings and floor debates, and submitting complaints to oversight bodies on behalf of detained individuals.

The Immigrant Safety Act Passes the New Mexico State Legislature

63. On January 13, 2026, the Immigrant Safety Act (House Bill 9) was introduced in the New Mexico state legislature.

64. The Immigrant Safety Act states: “A public body shall not enter into, extend, renew, or otherwise agree to be a party to an agreement to detain individuals for federal civil immigration violations, including an intergovernmental services agreement to detain individuals for civil immigration violations.” NMSA 1978, § 13-9-3(A).

65. The Immigrant Safety Act also states: “A public body that is a party to an existing agreement to detain individuals for federal civil immigration violations shall, upon the effective date of the Immigrant Safety Act, terminate the agreement upon the earliest date permissible under the terms of the agreement.” NMSA 1978, § 13-9-3(B).

66. The Immigrant Safety Act garnered exceptionally strong community support across a wide range of constituencies including organizations advocating for immigrants’ rights, civil liberties, environmental rights, LGBTQ+ rights, children’s rights, Indigenous people’s rights, and faith-based communities.

67. Legislative committee hearings involving the Immigrant Safety Act were often so well-attended that they required larger committee chambers to accommodate members of the public.

68. Floor debate on the Immigrant Safety Act lasted three hours in each house of the legislature, the maximum amount of debate time allowed for a single piece of legislation.

69. The legislation attracted significant media coverage from prominent state and local media outlets as well as regional and national coverage.

70. During legislative debates on the Immigrant Safety Act, statements were made indicating that ICE would likely opt to contract directly with CoreCivic, in order to continue detaining noncitizens in ICE custody at the CCCC and the TCDF.

71. By February 3, 2026, the Immigrant Safety Act had passed both houses of the New Mexico legislature.

72. Governor Michelle Lujan Grisham signed the Immigrant Safety Act into law on February 5, 2026.

73. The Immigrant Safety Act took effect on May 20, 2026.

ICE Announces Direct Contracting

74. On March 10, 2026—after the Immigrant Safety Act was signed into law but before it came into effect—ICE published a “Notice of Intent to Sole Source – Torrance and Cibola” on <https://www.SAM.gov>.

75. The Notice stated that ICE “intends to award a sole source contract to CoreCivic for the operation and management of transportation for protection of detainees for ICE primarily, but not exclusively, at Cibola and Torrance detention facilities.”

76. The Notice stated that “ICE intends to procure these detention services pursuant to RFO Subpart 6.103-1, only one responsible source and no other supplies or services will satisfy agency requirements.”

77. According to the website <https://www.usaspending.gov/>, the sole-source contract awarded to CoreCivic for ICE detention operations at the TCDF and the CCCC has a current award amount of \$26.2 million and total potential award amount of \$36.3 million.

Sole-Source Contract Takes Effect

78. On March 26, 2026, the Cibola County Board of Commissioners approved letters to CoreCivic and ICE notifying them of the termination of the existing IGSA for immigration detention services, effective May 20, 2026.

79. On April 2, 2026, the Torrance County Board of County Commissioner discussed the termination of the IGSA for immigration detention services. The County Manager explained that CoreCivic would be transitioning to a direct contract with ICE for immigration detention services at the TCDF, that those negotiations would be complete within 30 days, and that the IGSA would sunset.

80. The sole-source contract between ICE and CoreCivic for detention services at the CCCC and the TCDF went into effect on May 1, 2026.

81. On information and belief, ICE has not made the written justification publicly available for this sole-source contract awarded to CoreCivic.

NMILC Submits FOIA Request

82. On September 3, 2026, Plaintiff submitted a FOIA request to ICE electronically through counsel. Ex. 1.

83. Plaintiff requested a fee waiver and expedited processing of its FOIA request. Plaintiff included an affidavit with a detailed explanation as to how the request meets the criteria for expedited processing set forth in 6 C.F.R. § 5.5(e)(1). *Id.* at Attach. 1. Plaintiff specified that this FOIA request involves: “(1) an urgency to inform the public about an actual or alleged federal government activity; and (2) a matter of widespread and exceptional media interest in which there exist possible questions about the government’s integrity which affect public confidence.” *Id.* at 3.

84. Plaintiff’s FOIA request sought records within the possession, custody, or control of ICE, for the time period of January 20, 2025, through the date of completion of the FOIA request, as follows:

- (1) *Any and all contracts entered into between ICE and CoreCivic pursuant to the “Notice of Intent to Sole Source – Torrance and Cibola,” Notice ID NOI-70CDCR26R00000014, published by the U.S. Department of Homeland Security on March 10, 2026,^[3] including modifications and amendments thereto.*

This request is inclusive of any and all such contracts entered into between ICE and wholly-owned subsidiaries of CoreCivic, including TransCor.

This request is inclusive of any and all appendices and attachments to such contracts, including Performance Work Statements, Quality Control Plans, Quality Assurance Surveillance Plans, and Jail Cost Statements.

- (2) *All records referenced on the USASpending.gov webpage for the Indefinite Delivery / Indefinite Quantity (IDIQ) Contract awarded to CoreCivic, No. 70CDCR26D00000029,^[4] which took effect on May 1, 2026, including:*

(a) IDIQ Contract No. 70CDCR26D00000029,^[5] including appendices, attachments, modifications, and amendments thereto;

(b) All “Child Award Orders” and all modifications and amendments thereto, including:

- (i) Delivery Order No. 15M40026FA3500020;^[6]*
- (ii) Delivery Order No. 70CDCR26FR0000060;^[7] and*
- (iii) Delivery Order No. 70CDCR26FR0000058.^[8]*

(c) All delivery orders and task orders issued in relation to the above-referenced IDIQ contract.

- (3) *Any and all emails and email attachments relating to the “Notice of Intent to Sole Source – Torrance and Cibola,” Notice ID NOI-70CDCR26R00000014, published by the U.S. Department of Homeland Security on March 10, 2026.^[9]*

- (4) *Any and all records, including written justifications and approvals, created pursuant to FAR 6.303-1, 6.303-2, and/or 6.304, in relation to the “Notice of Intent to Sole*

³ SAM.GOV, “Notice of Intent to Sole Source – Torrance and Cibola” (Mar. 10, 2026), <https://sam.gov/workspace/contract/opp/ee796eb2d09b4216a30f6b15d9dd4a8d/view>.

⁴ USASPENDING.GOV, “Indefinite Delivery / Indefinite Quantity (IDIQ) Contract: PIID 70CDCR26D00000029,”

https://www.usaspending.gov/award/CONT_IDV_70CDCR26D00000029_7012.

⁵ Unique Award Key CONT_IDV_70CDCR26D00000029_7012.

⁶ Unique Award Key CONT_AWD_15M40026FA3500020_1544_70CDCR26D00000029_7012.

⁷ Unique Award Key CONT_AWD_70CDCR26FR0000060_7012_70CDCR26D00000029_7012.

⁸ Unique Award Key CONT_AWD_70CDCR26FR0000058_7012_70CDCR26D00000029_7012.

⁹ See *supra* n.[3].

Source – Torrance and Cibola,” Notice ID NOI-70CDCR26R00000014, published by the U.S. Department of Homeland Security on March 10, 2026.^[10]

(5) *Any and all records relating to FAR 6.305, including records pertaining to FAR 6.305(f), in relation to the justification(s) for the “Notice of Intent to Sole Source – Torrance and Cibola,” Notice ID NOI-70CDCR26R00000014, published by the U.S. Department of Homeland Security on March 10, 2026.*^[11]

Ex. 1.

85. ICE’s SecureRelease Portal showed that Plaintiff’s FOIA request was successfully submitted on September 3, 2026. Ex. 2.

86. ICE designated Plaintiff’s FOIA request as FOIA Request No. 2026-ICFO-40141.

87. The 10-calendar-day statutory period for ICE to respond to Plaintiff’s request for expedited processing elapsed on September 13, 2026.

88. ICE did not make a decision within the statutory period on whether to grant or deny Plaintiff’s request for expedited processing.

89. On September 8, 2026, ICE’s FOIA Office sent an email to Plaintiff’s counsel, with the subject: “ICE FOIA 2026-ICFO-40141 Clarification Request.” Ex. 3 [hereinafter, “the Clarification Request”].

90. In the Clarification Request, ICE stated: “As currently framed, portions of your request do not reasonably describe the records sought in a way that allows ICE to conduct a focused and reasonable search.” *Id.* at 1. ICE requested additional information and for Plaintiff to voluntarily narrow the scope of the search. *Id.*

91. In the Clarification Request, ICE stated: “Please provide your clarification as soon as possible to avoid further delay in processing your request. ... If we do not receive your response

¹⁰ *Id.*

¹¹ *Id.*

within 30 working days of the date of this letter, your request will be administratively closed.” *Id.* at 2.

92. The Clarification Request did not include any decision on Plaintiff’s request for expedited processing. *Id.*

93. On September 22, 2026, Plaintiff submitted a response letter to ICE via email and the SecureRelease Portal. Ex. 4; Ex. 5.

94. In that response letter, Plaintiff declined to narrow the scope of the records requested and provided legal reasoning for the decision to decline. Ex. 4.

95. Plaintiff’s response letter provided additional information to ICE as a courtesy “to assist the agency in searching for responsive records.” Ex. 4 at 2.

96. On September 22, 2026, Plaintiff received a system-generated email message confirming the successful submission of Plaintiff’s response letter. Ex. 6.

97. The 20-business-day statutory period for ICE to make a determination on Plaintiff’s FOIA request elapsed on October 2, 2026.

98. ICE did not make a determination on Plaintiff’s FOIA request within the statutory period.

99. ICE did not notify Plaintiff before the expiration of the 20-business-day period of any unusual circumstances involved in processing Plaintiff’s FOIA request.

100. On October 13, 2026, 40 calendar days (26 business days) after the submission of Plaintiff’s FOIA request, ICE sent a letter to Plaintiff acknowledging receipt of the FOIA request and denying Plaintiff’s request for expedited processing. Ex. 7 [hereinafter, “the Acknowledgment Letter”].

101. ICE provided the following rationale for denying Plaintiff’s request for expedited processing:

Your request for expedited processing is denied because it does not satisfy either category under 6 C.F.R. § 5.5(e)(1). You have not shown that the lack of expedited treatment will pose an imminent threat to the life or physical safety of any individual. Although you may be primarily engaged in disseminating information, you have not provided specific, detailed reasons demonstrating an urgency to inform the public about the subject of your request that exceeds the public’s general interest in government activities. You also have not provided sufficient supporting evidence of a heightened public interest in this subject. Your request is largely conclusory and does not present facts that justify expedited processing under the applicable standards.

Id. at 1–2.

102. The Acknowledgment Letter states that “[b]ecause [Plaintiff’s] request seeks numerous records and requires a thorough and wide-ranging search, ICE is invoking a 10-business-day extension for your request as allowed by 5 U.S.C. § 552(a)(6)(B).” *Id.* at 2.

103. The Acknowledgment Letter states that the agency has “tasked the appropriate ICE program offices with searching for records responsive to” Plaintiff’s FOIA request. *Id.* at 2.

104. The Acknowledgment Letter does not specify any date by which the processing of Plaintiff’s FOIA request can be expected to be completed.

105. As of the date of filing of this Complaint, ICE has not provided any determination regarding Plaintiff’s FOIA request.

106. On information and belief, ICE has not yet conducted a search for records responsive to Plaintiff’s FOIA request.

107. ICE has not yet produced any records responsive to Plaintiff’s FOIA request.

108. ICE has not yet asserted that any statutory exemptions apply to records responsive to Plaintiff’s FOIA request.

CLAIMS FOR RELIEF
COUNT ONE
VIOLATION OF THE FREEDOM OF INFORMATION ACT
5 U.S.C. § 552(a)(6)(E)
DENIAL OF EXPEDITED PROCESSING

109. Plaintiff re-alleges and incorporates by reference all allegations in the foregoing paragraphs.

110. Plaintiff sought expedited processing of its request based on several factors demonstrating a compelling need as articulated in its original request to ICE. 5 U.S.C. § 552(a)(6)(E); 6 C.F.R. § 5.5(e)(3).

111. Plaintiff has demonstrated a compelling need for the expedited processing of its FOIA request.

112. The FOIA requires “that a determination of whether to provide expedited processing shall be made, and notice of the determination shall be provided to the person making the request, within 10 days after the date of the request.” 5 U.S.C. § 552(a)(6)(E)(ii)(I).

113. ICE did not make a decision within the statutory period on whether to grant or deny Plaintiff’s request for expedited processing.

114. ICE denied Plaintiff’s request for expedited processing 40 calendar days after the FOIA request was submitted.

115. ICE’s failure to grant Plaintiff’s request for expedited processing constitutes an unlawful withholding of agency records in violation of the FOIA.

116. Plaintiff has constructively exhausted all available administrative remedies.

COUNT TWO
VIOLATION OF THE FREEDOM OF INFORMATION ACT
5 U.S.C. §§ 552(a)(4)(B), 552(a)(3)(A), and 552(a)(6)
UNLAWFUL WITHHOLDING OF AGENCY RECORDS

117. Plaintiff re-alleges and incorporates by reference all allegations in the foregoing paragraphs.

118. Plaintiff has a legal right under the FOIA to the timely search and release of nonexempt agency records responsive to its September 3, 2026 FOIA request.

119. No legal basis exists for ICE's failure to adequately and timely search for and release responsive agency records in compliance with the FOIA's time limits.

120. ICE's failure to make reasonable and timely efforts to search for and release responsive agency records constitutes an unlawful withholding under the FOIA that this Court can and should remedy through declaration and injunction.

121. ICE has failed to make "promptly available" responsive records to Plaintiff. 5 U.S.C. § 552(a)(3)(A).

122. Because ICE has failed to comply with the FOIA's time limits—including its failure to provide a determination to Plaintiff within the FOIA's time limits—Plaintiff has constructively exhausted its administrative remedies.

PRAYER FOR RELIEF

Wherefore, Plaintiff respectfully requests that this Court:

1. Enter judgment in favor of Plaintiff and against Defendant;
2. Order Defendant to process Plaintiff's FOIA request expeditiously in accordance with 5 U.S.C. § 552(a)(6)(E) and 6 C.F.R. § 5.5(e);
3. Declare Defendant's withholdings under the FOIA unlawful and enjoin these unlawful withholdings;

4. Issue an injunction ordering Defendant to conduct a prompt and adequate search for all responsive records, determine which, if any, portions of such records are exempt, and require Defendant to produce to Plaintiff the remaining portion of these agency records;
5. Award Plaintiff reasonable costs and attorney's fees pursuant to 5 U.S.C. § 552(a)(4)(E) and/or 28 U.S.C. § 2412(d)(1)(A); and
6. Award Plaintiff such further relief as the Court deems just, equitable, and appropriate.

Dated: October 16, 2026

Respectfully submitted:

/s/ Rebecca Sheff

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of October, 2026, I filed the foregoing using CM/ECF, which caused all counsel of record to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/ Rebecca Sheff
Rebecca Sheff