



November 15, 2021

DOE Headquarters  
FOIA Requester Service Center  
1000 Independence Avenue, SW  
Mail Stop MA-46  
Washington, DC 20585

SENT VIA: FOIA-Central@hq.doe.gov.

RE: Freedom of Information Act (FOIA) Request of the Chinese American Legal Defense Alliance (CALDA)

Dear FOIA Officer,

I am writing on behalf of my client, Chinese American Legal Defense Alliance (CALDA). CALDA is a nonprofit organization registered in New Jersey and California. Their contact address for this request is 7901 Stoneridge Drive #208, Pleasanton, CA 94588; and email address is czhu@dehengsv.com.

## **I. REQUEST**

CALDA, pursuant to the Freedom of Information Act (hereafter FOIA) makes the following requests:

- 1) Any reports, training manuals or documents, policy directives, and emails to and from any American academic institutions including but not limited to administrators, employees, grant recipients or administrators, associated unions, and businesses or commercial entities working with academic intuitions; regarding the “China Initiative” and/or those records that relate to federal funding or grants and the following laws and/or their contents generally:
  - a. 18 U.S.C. § 371 – Conspiracy
  - b. 18 U.S.C. § 666 – Theft or bribery concerning programs receiving federal funds
  - c. 18 U.S.C. § 1001 – Unlawful statements or entries generally
  - d. 18 U.S.C. § 1343 – Wire Fraud
  - e. 18 U.S.C. § 1512(c)(1)-(2) – Alteration, destruction, mutilation, or concealment of records; obstruction of official proceedings
  - f. 18 USC § 1542 – False statement in application and use of passport
  - g. 18 U.S.C. § 1546 – Fraud and misuse of visas, permits, and other documents
  - h. 18 U.S.C. § 1831 – Economic espionage
  - i. 18 U.S.C. § 1832 – Theft of trade secrets

- 2) All records pertaining to the agency's communications to or from American academic institutions, associations or groups representing academics, unions representing university or college staff and employees, businesses or academic activities on American academic institutions' campuses that include any of the following word combinations:
  - a. "Chinese" and/or "China" + "Non-traditional collector(s)"
  - b. "Chinese" and/or "China" + "Non-traditional Intelligence collector(s)"
  - c. "Chinese" and/or "China" + "conflict(s) of interest(s)"
  - d. "Chinese" and/or "China" + "conflict(s) of commitment(s)"
  - e. "Chinese" and/or "China" + "Falsifying"
  - f. "Chinese" and/or "China" + "Failing to report"
  - g. "Chinese" and/or "China" + "Misleading statement(s)"
  - h. "Chinese" and/or "China" + "Obscure(d) affiliation"
  - i. "Chinese" and/or "China" + "Funding restriction(s)"
  - j. "Chinese" and/or "China" + "Restriction(s) of fund(s)"
  - k. "Chinese" and/or "China" + "Restriction(s) of funding"
  - l. "Chinese" and/or "China" + "Restriction(s) to fund(s)"
  - m. "Chinese" and/or "China" + "Restriction(s) to funding"
  - n. "Chinese" and/or "China" + "Fraud"
  - o. "Chinese" and/or "China" + "Defraud"
  - p. "Chinese" and/or "China" + "Scheme to defraud"
  - q. "Chinese" and/or "China" + "Scheme to conceal"
  - r. "Chinese" and/or "China" + "Conceal(ing)"
  - s. "Chinese" and/or "China" + "Conceal(ed)"
  - t. "Chinese" and/or "China" + "Foreign support"
  - u. "Chinese" and/or "China" + "Economic Espionage"
  - v. "Chinese" and/or "China" + "Theft"
  - w. "Chinese" and/or "China" + "Theft of trade secret(s)"
  
- 3) Records containing statistics or data concerning the number of instances or reports of grant fraud initiated per year, month or any other time period, as well as any statistics or data concerning race, ethnicity, and or the national origin of those involved in these instances or reports.
  
- 4) Records containing statistics or data concerning the race, ethnicity, and or the national origin of those targeted by currently open or closed investigations as part of the "china initiative" or violations of any of the federal laws listed above as part of request (1).
  
- 5) Records relating to the agency's expenditures, budget, allocation of funds, or other monetary distributions relating to the enforcement of the federal laws listed above as part of request (1), or laws, regulations, or rules relating to them or their general purpose.

## II. TIME FRAME OF THIS REQUEST

For all requests and their counter parts, the time frame is identified to include November 2015, to the present (i.e., throughout the time of the agency's search); roughly equaling three years before, and three years after the official start of the "China Initiative."

### III. INFORMATION HELPFUL TO FULFILLING THIS REQUEST

In November of 2018, the Department of Justice (DOJ) announced the start of the “China Initiative.” Then-Attorney General Jeff Sessions stated that: “This Initiative will identify priority Chinese trade theft cases, ensure that we have enough resources dedicated to them, and make sure that we bring them to an appropriate conclusion quickly and effectively.”<sup>1</sup> Intense publicity campaigns by the FBI to Corporate America<sup>2</sup> and Academia<sup>3</sup> followed to justify and mobilize a whole-of-government effort with massive federal dollars and resources.

Disturbingly, the “China Initiative” amplified a new xenophobic label of “non-traditional collectors,” which was first used by FBI Director Christopher Wray.<sup>4</sup> This term prompted concern from Asian Americans and civil rights groups across the country. For example, a group of 14 advocacy organizations signed a letter to Director Wray expressing their concerns that the “well-intentioned public policies might nonetheless lead to troubling issues of potential bias, racial profiling, and wrongful prosecution.”<sup>5</sup>

Furthermore, civil rights leaders have raised concerns about the “China Initiative” and have called for its immediate end. In January 2021, the Asian Pacific American Justice (APA Justice), along with the Brennan Center for Justice and the Asian Americans Advancing Justice (AAJC), sent a letter to then President-Elect Biden that was signed by almost 70 other organizations raising concerns about the “China Initiative” and calling for its end.<sup>6</sup>

Importantly, within the Asian American community, there is a significant amount of anecdotal evidence regarding profiling of Asian Americans. Former University of Tennessee Knoxville (UTK) Professor Anming Hu<sup>7</sup> was the first case of an academic to go to trial under the “China Initiative” in June 2021. The trial revealed the zeal of the misguided “China Initiative” and FBI agent Kujtim Sadiku to criminalize Professor Hu with reckless and deplorable tactics<sup>8</sup> of spreading false information to cast him as a spy for China and press him to become a spy for the U.S. government. When these efforts failed, DOJ brought charges against Professor Hu for intentionally hiding his ties to a university in China, which also fell apart upon cross examination of UTK officials during the trial. After the presiding judge declared a mistrial with a hung jury, a juror commented<sup>9</sup> that “[i]t was the most ridiculous case.” About the FBI, she added: “If this is

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<sup>1</sup> “Attorney General Jeff Session’s China Initiative Fact Sheet”, November 1, 2018, <https://www.justice.gov/opa/speech/file/1107256/download>

<sup>2</sup> <https://www.fbi.gov/file-repository/china-risk-to-corporate-america-2019.pdf/view>

<sup>3</sup> <https://www.fbi.gov/file-repository/china-risk-to-academia-2019.pdf/view>

<sup>4</sup> David Choi, “FBI director calls China out on one of the biggest threats to the US”, Mar 21, 2018, <https://www.businessinsider.com/fbi-china-espionage-chris-wray-2018-3>

<sup>5</sup> “Open Letter To Fbi Director Christopher Wray”, March 1, 2018, [https://advancingjustice-aaajc.org/sites/default/files/2018-](https://advancingjustice-aaajc.org/sites/default/files/2018-03/OPEN%20LETTER%20TO%20FBI%20DIRECTOR%20CHRISTOPHER%20WRAY.pdf)

[03/OPEN%20LETTER%20TO%20FBI%20DIRECTOR%20CHRISTOPHER%20WRAY.pdf](https://advancingjustice-aaajc.org/sites/default/files/2018-03/OPEN%20LETTER%20TO%20FBI%20DIRECTOR%20CHRISTOPHER%20WRAY.pdf)

<sup>6</sup> “Letter to President-elect Joe Biden on Justice Department’s ‘China Initiative,’” AAJC, January 5, 2021, <https://advancingjustice-aaajc.org/sites/default/files/2021-01/Letter%20to%20President-elect%20Biden%20Re%20the%20China%20Initiative.pdf>

<sup>7</sup> <https://www.apajustice.org/anming-hu.html>

<sup>8</sup> <https://www.knoxnews.com/story/news/crime/2021/06/14/federal-agents-falsely-accused-university-of-tennessee-professor-spying-china/7649378002/>

<sup>9</sup> <https://theintercept.com/2021/06/23/anming-hu-trial-fbi-china/>

who is protecting America, we've got problems." Despite these backdrops, DOJ announced its intent to retry the case, including the utterly ironic allegation that Professor Hu made false statements to federal agents.

This case prompted further scrutiny from the U.S. Congress. On June 18, 2021, three Members of Congress sent a letter to the Inspector General of the Department of Justice requesting information about Professor Anming Hu's case and the practices of the "China Initiative" more broadly. Then, on July 30, 2021, over 90 Members of Congress from both the House of Representatives and the Senate sent a letter to Attorney General Merrick Garland requesting information about the "China Initiative."<sup>10</sup> In this letter, they "request whether, under the 'China Initiative,' there is a written or unwritten policy, program, pattern or practice to target people based on their race, ethnicity or national origin."

The Initiative has created a sense among Asian Americans in academia of feeling "uneasy", "profil[ed]", "targeted", and "fear[ful]".<sup>11 12</sup> In fact, the issue has preceded the case of Professor Anming Hu. In February 2020, the Subcommittee on Civil Rights and Civil Liberties of the House Oversight Committee launched an investigation into the Federal Bureau of Investigation's (FBI) handling of probes of ethnically Chinese scientists.<sup>13</sup> This investigation was based on concerns that the FBI was targeting and discriminating against scientists of Chinese ethnicity.

On June 30, 2021, Representative Jamie Raskin, Chair of the House Oversight Subcommittee on Civil Rights and Civil Liberties, and Representative Judy Chu, Chair of the Congressional Asian Pacific American Caucus (CAPAC), held a Congressional roundtable on this issue entitled: "Researching while Chinese American: Ethnic Profiling, Chinese American Scientists and a New American Brain Drain."<sup>14</sup>

The DOJ publishes press releases regarding updates to cases that are considered "China Initiative" cases.<sup>15</sup> Based on the press releases on the DOJ website, it appears that investigations

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<sup>10</sup> "Rep. Lieu And 90 Members Of Congress Urge DOJ Probe Into Alleged Racial Profiling Of Asians", July 30, 2021, <https://lieu.house.gov/media-center/press-releases/rep-lieu-and-90-members-congress-urge-DOJ-probe-alleged-racial-profiling>

<sup>11</sup> Jodi Xu Klein, "Fear mounts that Chinese-American scientists are being targeted amid US national security crackdown," *South China Morning Post*, July 3, 2019, <https://www.scmp.com/news/china/diplomacy/article/3017013/fear-mounts-chinese-american-scientists-are-being-targeted>

<sup>12</sup> Jeff Tollefson, "Chinese American scientists uneasy amid crackdown on foreign influence," *Nature*, June 3, 2019, <https://www.nature.com/articles/d41586-019-01605-9>

<sup>13</sup> "Raskin and Chu Launch Investigation into NIH and FBI Probes of Chinese Scientists," *House Oversight Committee*, February 20, 2020, <https://oversight.house.gov/news/press-releases/raskin-and-chu-launch-investigation-into-nih-and-fbi-probes-of-chinese>

<sup>14</sup> "House Oversight Committee, Roundtable Led By Reps. Raskin And Chu Hears About Effects Of Ethnic Profiling Against Chinese American Scientists," *House Oversight Committee*, June 30, 2021, <https://raskin.house.gov/2021/6/roundtable-led-by-reps-raskin-and-chu-hears-about-effects-of-ethnic-profiling-against-chinese-american-scientists>

<sup>15</sup> General information and press releases for the "China Initiative" can be found here: "Information About The Department Of Justice's China Initiative And A Compilation Of China-related Prosecutions Since 2018",

relating to the “China Initiative” are conducted – at the very least – by the Federal Bureau of Investigation (FBI), the National Security Division (NSD), Department of Health and Human Services (HHS) including but not limited to their Office of Inspector General, and the various United States Attorney Offices in the states where the charges are eventually made. Additionally, other federal agencies appear to also be involved with these investigations including but not limited to, the National Institute of Health (NIH), the Federal Drug Administration (FDA), National Aeronautics and Space Agency (NASA), Department of Energy (DOE), and other agencies associated with federal funding and grants for research, including funding from the National Science Foundation (NSF). Some of these investigations are assisted by various American academic institutions. Furthermore, based on the charging documents linked to the press release page on the DOJ website, our request includes the most common federal charges brought against those accused in cases seemingly related to enforcement of the “China Initiative.”

As demonstrated by DOJ’s press releases, many federal agencies are actively involved in the enforcement of an assortment of federal laws directly or indirectly related to the “Chinese Initiative.” For example, in 2018, the NIH, “prompted by information provided by the F.B.I., sent 18,000 letters . . . urging administrators who oversee government grants to be vigilant” about alleged theft of intellectual property for China.<sup>16</sup> According to the latest reports in April 2021, 507 NIH grant recipients are “under investigation for being compromised by China and other foreign countries,” and the NIH “has contacted over 90 institutions ‘regarding over 200 of these scientists.’”<sup>17</sup> In June 2020, it was reported that for as many as 93% of scientists under investigation, China was the source of their undisclosed support; furthermore, as many as 82% of those being investigated were Asian.<sup>18</sup>

Michael Lauer, NIH Deputy Director for Extramural Research, stated that there are three ways to identify potential disclosure issues of scientists:

- (a) working in consort with federal law enforcement agencies, including the FBI,
- (b) anonymous complaints, and
- (c) stewardship of NIH program staff.<sup>19</sup>

The NIH has not, however, explained how many investigations were started through each of the three sources, nor have racial or ethnic breakdowns for each channel been provided. Importantly, there is a significant amount of anecdotal evidence regarding profiling of Asian Americans in academia particularly among those receiving grants from the NIH. There is good reason to believe, that like the NIH, other federal agencies including the Department of Defense,

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*Department of Justice*, <https://www.justice.gov/nsd/information-about-department-justice-s-china-initiative-and-compilation-china-related>

<sup>16</sup> Gina Kolata, “Vast Dragnet Targets Theft of Biomedical Secrets for China”, *The New York Times*, November 4, 2019, <https://www.nytimes.com/2019/11/04/health/china-nih-scientists.html>

<sup>17</sup> Matthew Impelli, “Over 500 U.S. Scientists Under Investigation for Being Compromised by China”, *Newsweek*, April 23, 2021, <https://www.newsweek.com/over-500-us-scientists-under-investigation-being-compromised-china-1586074>

<sup>18</sup> Jeffery Mervis, “Fifty-four scientists have lost their jobs as a result of NIH probe into foreign ties,” *Science*, June 12, 2020, <https://www.sciencemag.org/news/2020/06/fifty-four-scientists-have-lost-their-jobs-result-nih-probe-foreign-ties>

<sup>19</sup> *The Cancer Letter* Vol. 45 No. 17 April 26, 2019, <https://bit.ly/2Rt4IRg>

and the Department of Energy have supported the FBI and other law enforcement agencies implement the “China Initiative.”

This widespread use of federal agencies to enforce the “China Initiative” has created “uneasy”, “profil[ed]”, “targeted”, and “fear[ful]” feelings among Asian Americans in academia<sup>20 21</sup>. In fact, the issue has garnered so much attention that in February 2020, the Subcommittee on Civil Rights and Civil Liberties of the House Oversight Committee launched an investigation into NIH’s handling of probes of ethnically Chinese scientists.<sup>22</sup> This investigation was based on concerns that the FBI and NIH were targeting and discriminating against scientists of Chinese ethnicity.

#### **IV. HOW RESPONSIVE RECORDS SHOULD BE PROVIDED**

CALDA requests copies of the responsive records for this FOIA request be provided in a digital format, either via email, or stored on a thumb drive, CD, or other electronic data storage devices. Providing these records in an electronic format will save agency staff processing time, as well as reducing the cost of making paper copies of all responsive records. *See* 5 U.S.C. §552 (a)(3)(B).

#### **V. APPLICATION FOR EXPEDITED PROCESSING**

CALDA requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E). There is a “compelling need” for these records, as defined in the statute, because the information requested is “urgen[tly]” needed by an organization primarily engaged in disseminating information “to inform the public concerning actual or alleged Federal Government activity.”<sup>23</sup>

##### **A. The Urgency of Obtaining the Requested Records**

The records requested are urgently needed to inform the public about possible ongoing civil rights violations being carried out by the government in its pursuit of the “China Initiative.” Beyond the government’s likely discriminatory prosecutions under this initiative, the effect of the unlawful discrimination is likely having a chilling effect on the collaboration and free association rights of Asian Americans, especially concerning their roles and opportunities in academic and scientific institutions. Thus, it’s no coincidence that former China Initiative Steering Committee member and former U.S. Attorney for the District of Massachusetts, Andrew Lelling, stated that the initiative’s purpose was to have a “chilling effect on collaboration with the Chinese.”<sup>24</sup>

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<sup>20</sup> Jodi Xu Klein, “Fear mounts that Chinese-American scientists are being targeted amid US national security crackdown,” *South China Morning Post*, July 3, 2019, <https://www.scmp.com/news/china/diplomacy/article/3017013/fear-mounts-chinese-american-scientists-are-being-targeted>

<sup>21</sup> Jeff Tollefson, “Chinese American scientists uneasy amid crackdown on foreign influence,” *Nature*, June 3, 2019, <https://www.nature.com/articles/d41586-019-01605-9>

<sup>22</sup> “Raskin and Chu Launch Investigation into NIH and FBI Probes of Chinese Scientists,” *House Oversight Committee*, February 20, 2020, <https://oversight.house.gov/news/press-releases/raskin-and-chu-launch-investigation-into-nih-and-fbi-probes-of-chinese>

<sup>23</sup> 5 U.S.C. § 552(a)(6)(E)(v)(II)

<sup>24</sup> Catherine Matacic, “U.S. attorneys warn of upcoming ‘spike’ in prosecutions related to China ties”, Feb. 7, 2020,

Consequently, history has demonstrated that when certain countries of origin become a focus of national security issues, innocent people in the United States with perceived ethnic or cultural ties to the targeted country, can easily become victims of unlawful discriminatory behavior. As explained in the section above (III. “Information Helpful to Fulfilling this Request”), this discrimination appears to already be taking place and requires immediate transparency and action to stop it. Therefore, this FOIA request is extremely time sensitive.

This request will shed light on government actions that are negatively affecting a significant public interest. As thoroughly cited and discussed in the section above (III. “Information Helpful to Fulfilling this Request”) numerous civil rights groups and Congressional Members and Committees have demonstrated very real concerns over the negative consequences the “China Initiative” has – and continues to have – on Asian Americans. These concerns have already been exemplified by the numerous cases cited above where individuals were seemingly targeted by the justice system based primarily on their ethnicity, and not the evidence, because time and time again the necessary evidence was never produced. These types of examples highlight concerns that innocent people are currently being swept up in counter-intelligence initiatives, which is reminiscent of a “new Red Scare.”<sup>25</sup>

Therefore, there is a compelling need for the information requested in this FOIA action because it would provide the public and government officials the clarity and context to properly scrutinize and alter how investigations under the new “China Initiative” are being conducted. Thus, it would help answer urgent questions regarding racial profiling prompted by the “China Initiative;” a government activity that’s effecting a significant public interest.

### **B. CALDA’s Primary Purpose for the Request is to Inform the Public about the Government’s Activity**

CALDA is the United States’ first and only non-profit organization dedicated to providing free and direct legal representation to all Chinese Americans who have suffered racial discrimination and hatred. Their mission is to seek justice and racial equality through litigation and other legal actions. While justice is achieved directly through their litigation process, racial equity is achieved through their public relation and public awareness campaigns that reveal the injustices exemplified by their litigation.

CALDA has many different means in which to widely disseminate the information it receives and generates from the records released by this request. Their main media channels include the social media platform WeChat. There, they have the ability to reach out to hundreds of thousands of Chinese Americans. Additionally, CALDA’s website ([www.caldausa.org](http://www.caldausa.org)) can reach out to millions of Chinese Americans. CALDA also has access to public relations firms that can publish stories on traditional national media platforms within the United States.

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<https://www.sciencemag.org/news/2020/02/us-attorneys-warn-upcoming-spike-prosecutions-related-china-ties>  
<sup>25</sup> “Raskin and Chu Launch Investigation into NIH and FBI Probes of Chinese Scientists,” *House Oversight Committee*, February 20, 2020, <https://oversight.house.gov/news/press-releases/raskin-and-chu-launch-investigation-into-nih-and-fbi-probes-of-chinese>

With regards to the “China Initiative,” CALDA is also working directly with multiple nationwide nonprofits including Asian Americans Advancing Justice, the ACLU, the Cato Institute, and APA Justice. All these organizations have proven their capability and willingness to help disseminate the information CALDA receives or generates from its own litigation and FOIA efforts. Lastly, CALDA’s board members are active in the dissemination of information relating to racial justice and equity. Many of them have been making presentations on different media platforms that are viewed by tens of thousands of people.

Therefore, the records, and the information that CALDA generates from this FOIA request, will be quickly and widely be disseminated to the public. In doing so, it can create the transparency and political will necessary to alter the government’s activity which continues to negatively affect a significant public interest; the unwarranted and unlawful discrimination of Asian Americans under the direction of the “China Initiative.”

## **VI. PUBLIC INTEREST FEE WAIVER REQUESTED**

Under the Freedom of Information Act a requester seeking a fee waiver must demonstrate with reasonable specificity that the requested information is likely to contribute significantly to the public understanding of government operations and activities. *See* 5 U.S.C. § 552. When considering a public interest fee waiver request, courts generally consider (1) the substance of the request, (2) the informative value of the information, (3) the requester's ability to disseminate the information, and (4) the likelihood that the information will contribute significantly to the public understanding. *Public Emples. for Env'tl. Responsibility v. United States DOC*, 968 F. Supp. 2d 88, 100 (D.D.C 2013).

Here, CALDA’s FOIA request, and the history and objectives of the CALDA organization, demonstrate its qualifications to receive a Public Interest Fee Waiver. First, as described in the sections above, the substance of the request is designed to expose the discriminatory effect of the government’s actions surrounding the implementation of the “China Initiative.” Secondly, also described above, the information sought is highly valuable because the request is designed to show that the government’s actions in pursuit of implementing the “China Initiative” are likely – directly or indirectly – having a discriminatory effect upon Asian Americans. The records released because of this request are likely to demonstrate the disparate discriminatory impact the “China Initiative” has had upon Asian Americans. Therefore, the release and analysis of these records will very likely create the transparency and political will necessary to create procedural safeguards to protect Asian Americans from the unnecessary and unlawful discrimination within the justice system, as well as in academic and scientific institutions.

Thirdly, and also describe in the section above, CALDA is perfectly situated to widely disseminate the records sought, as well as the information generated from the analysis of the records sought. CALDA has demonstrated its ability and intent to widely disseminate any information derived from this request through its media apparatus as well as other organizations it works closely with.

Finally, the information sought is very likely to significantly contribute to the public understanding of the disparate impact the “China Initiative” has had on Asian Americans. Records released from this request will illustrate whether there has been an uptick in serious federal charges against Asian Americans since the start of the “China Initiative.” By requesting records before and after start of the “China Initiative,” it will allow a thorough analysis of the effect the “China Initiative” has had on Asian Americans, and whether that increase scrutiny has been justified, or has been improperly prompted by discriminatory stereotypes.

## **VII. POLICY AND LEGAL DIRECTION FOR OPEN GOVERNMENT**

Disclosure of the above referenced agency records are also sought in order to promote government transparency, and to reflect the Administration’s policy to support our nation’s fundamental commitment to open government. As the Supreme Court has observed, “virtually every document generated by an agency is available in one form or another, unless it falls within one of the Act’s nine exemptions.” *NLRB v. Sears, Roebuck & Co.*, 421 U.S. 132, 136 (1975). FOIA was designed to “pierce the veil of administrative secrecy and to open agency action to the light of public scrutiny,” see, e.g., *Dept. of the Air Force v. Rose*, 425 U.S. 352, 361 (1976), and in order “to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.” *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978); see also *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1310 (D.C. Cir. 2003); *United States Dept. of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 773 (1989).

The above described agency records are subject to disclosure under FOIA, and are not otherwise exempt from disclosure pursuant to FOIA’s nine statutory exemptions. See 5 U.S.C. § 552(b)(1) - (9). To the extent that a determination is made by your FOIA office staff that any limited portions of the records listed above will be withheld from disclosure for this request, FOIA expressly requires all agencies to disclose “[a]ny reasonably segregable portion of a record . . . after deletion of the portions of the record which are exempt.” 5 U.S.C. §552(b). See, e.g., *Oglesby v. U.S. Dept. of Army*, 79 F.3d 1172, 1178 (D.C. Cir. 1996); see also *Abdelfattah v. U.S. Dept. Of Homeland Security*, 488 F.3d 178, 186-187 (3rd Cir).

The 2007 Openness Promotes Effectiveness in our National Government Act amendments to FOIA (the “OPEN Government Act”) requires identification of the amount of any material withheld, the location of any withholdings, a direct reference to the specific statutory exemption supporting each withholdings asserted, and if technically possible, also require that this information shall “be indicated at the place in the record where such deletion is made.” See 5 U.S.C. § 552(b). Therefore, I would appreciate your assistance in expressly identifying any exempt responsive records (or portions thereof) and the applicable FOIA exemptions for any responsive materials withheld for this FOIA request.

Please inform my office in writing if there are any “unusual circumstances” that will cause delay in responding to this FOIA request, or providing the records which are requested, and in addition, please provide the approximate date that you anticipate a final response will be provided.

## **VIII. AUTHORIZATION**

Attached to this request is a Declaration of Mr. Clay Zhu, who is one of the founders and board chair of CALDA, which authorizes C. Peter Sorenson, attorney for CALDA, to make this request and to receive records on behalf of CALDA.

If any other authorizations or forms are needed for processing the request, the release of responsive records, the request for expedited processing, or request for the public interest fee waiver, please let us know as soon as possible. We are more than happy to supply the agency with all necessary documentation required to complete this request as requested.

## **IX. ESTIMATED DATE OF COMPLETION REQUESTED**

CALDA specifically requests the agency to provide an estimated date of completion for this request.

## **X. CONTACT**

Please provide a receipt for this request and provide a tracking number so that we may inquire about the status of this request.

If you have any questions regarding this FOIA request or need help locating documents, or if I can be of any other assistance, please feel free to contact me at (541) 606-9173, or via email to: [petesorenson@gmail.com](mailto:petesorenson@gmail.com).

Thank you in advance for your assistance.

Best,

C. Peter Sorenson  
Sorenson Law Office  
PO Box 10836  
Eugene, Oregon 97440

Attachment: Declaration of Mr. Keliang "Clay" Zhu