

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

THE PROTECT DEMOCRACY PROJECT, INC.

Plaintiff

vs.

DEPARTMENT OF HOMELAND SECURITY, *et al.*,

Defendants.

17-cv-02118-RDM  
17-cv-02202-RDM

**PLAINTIFF’S SUPPLEMENTAL STATUS REPORT**

Plaintiff The Protect Democracy Project, Inc., by and through its undersigned counsel, is submitting this supplemental status report to advise Defendants and the Court that, at the status conference scheduled for October 29, 2018, it intends to request that the Court direct Defendants OPM and DHS to provide an informal description of their redactions in Case Nos. 17-cv-2118 and 17-cv-2202, respectively.<sup>1</sup>

As described in Plaintiff’s recent Status Report for Case No. -2118 (ECF No. 23), Plaintiff has repeatedly requested that Defendants Customs and Border Protection (“CBP”) and Office of Personnel Management (“OPM”) provide an explanation for the extensive redactions in their productions. On October 12, Plaintiff also requested an explanation from Defendant Department of Homeland Security (“DHS”) in connection with redactions made in Case No. -2202. These requests were motivated by Plaintiff’s observation that each agency had redacted or

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<sup>1</sup> Plaintiff provided Defendants with a letter setting out the issues covered in this status report on October 24, 2018, and will continue to confer with counsel for the Defendants on these issues ahead of the October 29 status conference.

withheld two-thirds or more of the pages in its productions. Of particular note, Defendant DHS has redacted or withheld fully 96% of the pages in its productions to date in Case No. -2202.

Precedent in this district, and in other federal courts, recognizes Plaintiff's right to obtain a *Vaughn* index or declaration from an agency prior to summary judgment in appropriate cases. *See, e.g.,* Minute Order, *American Oversight v. U.S. Dep't of Homeland Security*, Case No. 17-cv-1187 (D.D.C. June 14, 2018) (Moss, J.); Memorandum Opinion, *Alliance Defending Freedom v. I.R.S.*, Case No. 15-cv-0525, Dkt. No. 23 (D.D.C. Dec. 22, 2016). By obtaining this information before summary judgment, a plaintiff is able to adequately assess the propriety of an agency's redactions and the parties are able to limit the issues that will need to be resolved by the court. *See Hansen v. U.S. Dep't of Air Force*, Case No. 91-cv-0099, 1991 WL 199748, \*1 (D.D.C. Apr. 15, 1991) (granting plaintiff's motion to compel a *Vaughn* index prior to summary judgment and observing that "[i]t would be unfair to allow the Government months to prepare its case and then force the [plaintiff] to formulate their entire case within the two weeks they have to respond to that motion"). Here, Plaintiff does not seek a complete *Vaughn* index in advance of summary judgment, but instead simply is asking for an informal summary of the redactions made by Defendants OPM and DHS.

Defendant CBP has already consented to Plaintiff's request for such a summary, and has provided a helpful preliminary explanation of its redactions in Case No. -2118 (appended to this letter). The preliminary explanation of redactions provided by CBP is significantly less detailed than a *Vaughn* index would be, but nevertheless provides useful information about the content of CBP's redactions. The information provided by CBP will materially reduce the litigation burden on Plaintiff, the Court, and CBP itself, by allowing Plaintiff to consider the reasonableness of CBP's redactions and begin negotiating their scope with CBP ahead of summary judgment.

Defendants OPM and DHS have not yet responded to Plaintiff's request for a similar summary. To the extent no response is received by October 29, 2018, Plaintiff believes that a direction from the Court to these two agencies could significantly enhance the efficiency of this litigation.

Plaintiff would be happy to respond to any questions the Court or Defendants may have as to this request at the October 29, 2018 status conference.

Respectfully submitted,

/s/ Nikhil V. Gore

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**CERTIFICATE OF SERVICE**

I, NIKHIL V. GORE, certify that on October 24, 2018, true and correct copies of Plaintiff's Supplemental Status Report were served electronically on all registered counsel of record via ECF.

Dated: October 24, 2018

/s/ Nikhil V. Gore  
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## June Documents

## 0001-0232\_HRM Contract:

- Generally b(6) and b(7)(c): personal information (names, phone numbers, signatures) of individuals
- Page 27: all b(7)(e): information about technical capabilities
- Page 28-32: b(7)(e): generally relates to processes and capabilities used by CBP and/or Accenture in recruiting/hiring
- Page 33-38: b(7)(e): names of models, systems, processes used by CBP and/or Accenture in recruiting/hiring
- Page 39: b(7)(e): names and information related to past Accenture work for other entities
- Page 40, 41: b(7)(e) and b(6) at top: names of other entities that work with Accenture; b(7)(e): relates to how Accenture will improve hiring
- Page 42: b(6): names of other entities
- Page 43, 44: generally processes/methods used by Accenture to improve hiring and past successes with other clients
- Page 45, 46, 47: b(7)(e): methods and processes used by Accenture; areas that Accenture will help CBP improve in
- Page 48-50: b(7)(e): suggested methods and processes used to improve CBP marketing, candidate sourcing, candidate engagement
- Page 50-52: b(7)(e): past analytic work and processes for analytic work; what type of data would be analyzed and how it would be used
- Page 52-55: b(7)(e): how the data analytics will be used to help CBP; application of the analytics
- Page 56, 57 58 (top): b(7)(e): Accenture's plan overview and delineation of responsibility for tasks between Accenture and CBP
- Page 58-64 (bottom half): b(7)(e): technical capabilities
- Page 65, 66, 67: b(7)(e): discussion of desired qualities for candidates; discussion of Accenture methods to address CBP challenges
- Page 67 (bottom half), 68, 69: b(7)(e): Description of how some Accenture tools function or how Accenture will use tools to benefit CBP
- Page 69, 70, 71-76: b(7)(e): description of determining qualified candidates; more about technical capabilities
- Page 77, 78-80: b(7)(e): description of tool that Accenture uses to support candidates throughout the hiring process
- Page 81: b(7)(e): description of tool used to compare candidates
- Page 82-85: b(7)(e): technical capabilities discussion
- Page 86, 87, 88: b(7)(e): description of how Accenture will improve the hiring process including discussion of CBP hiring challenges;
- Page 88, 89, 90, 91: b(7)(e): also mentions other members of Accenture's team

- Page 92: members of Accenture's team and the steps along the process where they will be working/how they will be working; also mentions Accenture employees by name (which are redacted)
- Page 93: b(7)(e): some financial information; discussion of responsibility between CBP and Accenture
- Page 94, 95: b(7)(e): discussion of responsibility; discussion of certain steps in hiring process
- Page 96, 97: b(7)(e): discussion of Accenture methods for addressing hiring challenges
- Page 97-113: b(7)(e): discussion of steps in hiring process and related Accenture method/tools as well as ways in which Accenture will address challenges CBP faces at each step
- Page 113-126: b(7)(e): description of CBP hiring process, steps in process, entities who assist CBP in hiring process, challenges to CBP, and process by which Accenture will assist
- Page 127: b(7)(e): discussion of a CBP hiring challenge and the ways in which Accenture can improve the challenge
- Page 128-129: b(7)(e): discussion of a CBP hiring challenge and the ways in which Accenture can improve the challenge; other past Accenture client examples of success
- Page 129: b(7)(e): description and depiction of tool related to reporting capabilities
- Page 130, 131: b(7)(e): examples of how Accenture implements a tool; description of another hiring tool
- Page 132-138: b(7)(e): depiction and description of Accenture tools/methods/processes to improve hiring
- Page 138 (bottom)-144: b(7)(e): technical capabilities
- Page 145-153: b(7)(e): description as well as depictions of how Accenture will protect data (including discussions of tools and how they function to protect data)
- Page 153, 154: b(7)(e): discussion of how Accenture will work within the Enterprise Architecture; depiction of deliverables
- Page 155, 156: b(7)(e): depiction of metadata; discussion of how Accenture will work with/improve/maintain metadata
- Page 156-159: b(7)(e): how Accenture will work with a data management plan; depiction of plan
- Page 159-165: b(7)(e): technical capabilities
- Page 166-173: b(7)(e): description of methods/processes Accenture will employ in regards to systems interfaces; includes depictions of interfaces
- Page 174-177: b(7)(e): technical capabilities discussion
- Page 178-182: b(7)(e): methods and processes Accenture will use to manage the program; b(6) discussions of past work; discussion/names/depictions of team members who will be responsible for various parts of program management and descriptions of the members qualifications for the job
- Page 182: b(7)(e): discussion of communication between CBP and Accenture
- Page 183: b(6) names of team members and their responsibilities

- Page 184-189: technical capabilities
- Page 190: pricing
- Page 191-193: CBP's past hiring numbers
- Remainder of document: names are redacted; info related to pricing and deliverables is redacted; security requirements of the agency are redacted; other requirements requested by the agency of the contractor that relate to agency needs/challenges are redacted; timelines as well as start/end dates are redacted

0233-0240\_OPM:

- Page 1: names, signatures, emails, phone numbers of employees
- Page 7: names, signatures of employees
- Page 8: name of location where hiring is needed

0241-0329\_emails:

- Generally: b(6) and b(7)(c) are used to redact the names, phone numbers, and email addresses of employees. This is personal information that does not shed light on the internal agency workings. We also generally do not redact the names of high ranking employees (i.e. the Commissioner).
- Page 15, 17, 21, 22, 24, 29, 30, 35, 89: attorney-client privileged information regarding the EO/immigration is redacted

0330-0514\_email attachments

- Generally b(6) and b(7)(c) are used to redact the names, phone numbers, and email addresses of employees.
- Page 1: amounts of staffing at locations on the border—law enforcement sensitive, because , for example, it could indicate where we have weaknesses

July documents

001-106

- Generally b(6) and b(7)(c) are used to redact the names, phone numbers, and email addresses of employees.
- Page 81, 85, 95, 96, 97, 98, 99,100, 101: attorney-client privileged information regarding the EO/immigration is redacted