

**From:** FOIA  
**Sent:** 4 Mar 2020 21:48:06 +0000  
**To:** FOIARequest@hhs.gov;FOIARquests@cdc.gov;nihfoia@mail.nih.gov;foia@niaid.nih.gov;FOIA\_Request@cms.hhs.gov;FOIA@acf.hhs.gov;foiarequest@state.gov;FOIA;edfoiamanager@ed.gov;ICE-FOIA@dhs.gov;FEMA-FOIA;whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil;ost.foia@dot.gov;vacofoiasservice@va.gov;Vhafoia2@va.gov;foiarequests@dol.gov;treasfoia@treasury.gov;OMBFOIA@omb.eop.gov  
**Subject:** FOIA Request (MULTI-20-0432-0454)  
**Attachments:** MULTI-20-0432-0454.pdf

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Dear FOIA Officers:

Please find attached a request for records under the Freedom of Information Act.

Sincerely,

(b)(6)

Paralegal

American Oversight

[foia@americanoversight.org](mailto:foia@americanoversight.org)

[www.americanoversight.org](http://www.americanoversight.org) | @weareoversight

FOIA: MULTI-20-0432-0454



March 4, 2020

**VIA EMAIL, FOIA ONLINE, ONLINE PORTAL OR FACSIMILE**

Michael Marquis  
Freedom of Information Officer  
Department of Health and Human  
Services  
Hubert H. Humphrey Building, Room  
729H  
200 Independence Avenue SW  
Washington, DC 20201  
[FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov)

Freedom of Information Officer  
U.S. Centers for Disease Control and  
Prevention  
1600 Clifton Road NE  
Building 57, Room MS D-54  
Atlanta, GA 30333  
[FOIARequests@cdc.gov](mailto:FOIARequests@cdc.gov)

NIH FOIA Office  
Building 31 Room 5B35  
31 Center Drive, MSC 2107  
Bethesda, MD 20892  
[nihfoia@mail.nih.gov](mailto:nihfoia@mail.nih.gov)

Robin Schofield  
National Institute of Allergy and  
Infectious Diseases  
Room 6G51  
5601 Fishers Lane  
Rockville, MD 20892  
[foia@niaid.nih.gov](mailto:foia@niaid.nih.gov)

Sarah Kotler  
Freedom of Information Officer  
Food and Drug Administration  
5630 Fishers Lane, Room 1035  
Rockville, MD 20857  
Facsimile: (301) 827-9267

Hugh Gilmore  
Freedom of Information Officer  
Centers for Medicare & Medicaid  
Services  
North Building, Room N2-20-06  
7500 Security Boulevard  
Baltimore, MD 21244  
[FOIA\\_Request@cms.hhs.gov](mailto:FOIA_Request@cms.hhs.gov)

Freedom of Information Officer  
Administration for Children & Families  
U.S. Department of Health and Human  
Services  
330 C Street SW  
Washington, DC 20201  
[FOIA@acf.hhs.gov](mailto:FOIA@acf.hhs.gov)

Office of Information Programs and  
Services  
U.S. Department of State  
A/GIS/IPS/RL  
SA-2, Suite 8100  
Washington, DC 20522  
[foiarequest@state.gov](mailto:foiarequest@state.gov)

Chief Privacy Officer/Chief FOIA Officer  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW  
Washington, DC 20528  
[foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)

FOIA Public Liaison  
U.S. Department of Education  
Office of Management  
Office of the Chief Privacy Officer  
400 Maryland Avenue SW, LBJ 2E320  
Washington, DC 20202-4536  
[edfoiamanager@ed.gov](mailto:edfoiamanager@ed.gov)



U.S. Immigration and Customs  
Enforcement  
Freedom of Information Act Office  
500 12th Street SW, Stop 5009  
Washington, DC 20536-5009  
[ICE-FOIA@dhs.gov](mailto:ICE-FOIA@dhs.gov)

FEMA Information Management  
Division  
FOIA Request  
500 C Street SW, Mailstop 3172  
Washington, DC 20472  
[fema-foia@fema.dhs.gov](mailto:fema-foia@fema.dhs.gov)

Stephanie Carr  
OSD/JS FOIA Requester Service Center  
Office of Freedom of Information  
U.S. Department of Defense  
1155 Defense Pentagon  
Washington, DC 20301-1155  
[whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil](mailto:whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil)

Michael Bell  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
W94-122  
Washington, DC 20590  
[ost.foia@dot.gov](mailto:ost.foia@dot.gov)

U.S. Department of Housing and Urban  
Development  
Freedom of Information Act Office  
451 7th Street SW, Room 10139  
Washington, DC 20410-3000  
Via Online Portal

U.S. Department of Veterans Affairs  
810 Vermont Avenue NW  
(005RIC) VACO  
Washington, DC 20420  
[vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

Michael Sarich  
Veterans Health Administration

U.S. Department of Veterans Affairs  
810 Vermont Avenue NW  
(10P2C1) VACO  
Washington, DC 20420  
[Vhafoia2@va.gov](mailto:Vhafoia2@va.gov)

FOIA Officer  
U.S. Customs and Border Protection  
90 K Street NE  
FOIA Division  
Washington, DC 20229  
Via FOIAOnline

Departmental FOIA Officer  
U.S. Department of Commerce  
Office of Privacy and Open Government  
14th and Constitution Avenue NW  
Mail Stop 52010FB  
Washington, DC 20230  
Via FOIA Online

Office of the Secretary  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210  
[foiarequests@dol.gov](mailto:foiarequests@dol.gov)

Ryan Law  
FOIA and Transparency  
Department of the Treasury  
Washington, DC 20220  
[treasfoia@treasury.gov](mailto:treasfoia@treasury.gov)

Information Disclosure Section  
Board of Governors of the Federal  
Reserve System  
20th & Constitution Avenue NW  
Washington, DC 20551  
Facsimile: (202) 872-7565

FOIA Officer  
Office of Management and Budget  
725 17th Street NW, Suite 9204  
Washington, DC 20503  
[OMBFOIA@omb.eop.gov](mailto:OMBFOIA@omb.eop.gov)

## Re: Freedom of Information Act Request

Dear FOIA Officers:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

The outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, COVID-19, has been declared a public health emergency at both the national and international levels.<sup>1</sup> Since late 2019, the virus has spread to dozens of countries, sickened tens of thousands of people, and resulted in thousands of deaths.<sup>2</sup> This is a rapidly evolving situation that is demanding coordinated attention and action across the federal government. Yet the Trump administration has so far failed to ensure timely availability of testing kits for healthcare providers,<sup>3</sup> prevented health experts from speaking about the growing crisis,<sup>4</sup> and removed information on the spread of the virus from public health resources.<sup>5</sup>

American Oversight seeks records with the potential to shed light on this matter.

### Requested Records

American Oversight requests that your agency produce the following records within twenty business days:

All final talking points or background materials prepared for any congressional briefings or hearings or press engagements by the leadership officials at your agency specified below regarding the ongoing coronavirus outbreak.

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<sup>1</sup> *Coronavirus Disease 2019 (COVID-19) Situation Summary*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>.

<sup>2</sup> *Coronavirus Live Updates: W.H.O Says Covid-19 Has Higher Fatality Rate Than the Flu*, N.Y. TIMES, Mar. 4, 2020, [https://www.nytimes.com/2020/03/04/world/coronavirus-news.html?action=click&pgtype=Article&state=default&module=stylncoronavirus&variant=show&region=TOP\\_BANNER&context=storyline\\_menu](https://www.nytimes.com/2020/03/04/world/coronavirus-news.html?action=click&pgtype=Article&state=default&module=stylncoronavirus&variant=show&region=TOP_BANNER&context=storyline_menu).

<sup>3</sup> Alice Park, *Responding to Coronavirus Testing Problems, U.S. Government Expands Number of Labs That Can Run Tests* (Mar. 2, 2020, updated 1:50 PM EST), TIME, <https://time.com/5793605/coronavirus-testing-united-states/>.

<sup>4</sup> Michael Shear and Maggie Haberman, *Pence Will Control All Coronavirus Messaging from Health Officials*, N.Y. TIMES, Feb. 27, 2020, <https://www.nytimes.com/2020/02/27/us/politics/us-coronavirus-pence.html>.

<sup>5</sup> Brianna Ehley, *Trump's Team Shifts Tone from Preventing Coronavirus to Containing It*, POLITICO (Mar. 2, 2020, 7:52 PM), <https://www.politico.com/news/2020/03/02/trump-coronavirus-pence-119051>.



The relevant agency leadership officials are specified below\*:

Department of Health and Human Services:

- Secretary Alex Azar
- Assistant Secretary for Preparedness and Response Robert Kadlec
- Assistant Secretary for Health Brett Giroir
- Surgeon General Jerome Adams
- Director of the Biomedical Advanced Research and Development Authority Rich Bright

Centers for Disease Control and Prevention:

- Director Robert Redfield
- Principal Deputy Director Anne Schuchat
- Director of the National Center for Immunization and Respiratory Diseases Nancy Messonnier
- Deputy Director for Infectious Diseases Jay C. Butler

National Institute for Health

- Director Francis Collins
- Director of the National Institute of Allergy and Infectious Diseases Anthony Fauci

Food and Drug Administration

- Commissioner Stephen Hahn
- Principal Deputy Commissioner Amy Abernethy
- Director of the Center for Drug Evaluation and Research Janet Woodcock
- Director of the Center for Devices and Radiological Health Jeff Shuren

Centers for Medicare and Medicaid Services

- Administrator Seema Verma
- Deputy Administrator Brady Brookes

Administration for Children and Families

- Assistant Secretary Lynn Johnson
- Principal Deputy Assistant Secretary Scott Lekan
- Anyone serving in the role of Deputy Assistant Secretary for External Affairs

Department of State

- Secretary Mike Pompeo
- Deputy Secretary Stephen Biegun
- Deputy Assistant Secretary Jonathan Fritz
- Principal Deputy Assistant Secretary Ian Brownlee
- Executive Director William A. Walters

Department of Defense

- Secretary Mark Esper
- Gen. Mark A. Milley

Department of Homeland Security

- Acting Secretary Chad Wolf
- Acting Deputy Secretary Ken Cuccinelli
- Acting Under Secretary for Science and Technology William Bryan

Customs and Border Patrol

- Acting Commissioner Mark Morgan
- Deputy Commissioner Robert E. Perez

Immigration and Customs Enforcement

- Acting Director Matthew T. Albence

Federal Emergency Management Agency

- Administrator Pete T. Gaynor
- Acting Deputy Administrator Daniel Kaniewski

Department of Transportation

- Secretary Elaine Chao
- Acting Under Secretary for Policy Joel Szabat

Department of Housing and Urban Development

- Secretary Ben Carson

Department of Veterans Affairs

- Secretary Robert Wilkie
- Executive in Charge Richard Stone

Department of Education

- Secretary Betsy DeVos
- Deputy Secretary Mick Zais

Department of Commerce

- Secretary Wilbur Ross
- Deputy Secretary Karen Dunn Kelley

Department of Labor

- Secretary Eugene Scalia
- Deputy Secretary Patrick Pizzella
- Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health Loren Sweatt

Department of Treasury

- Secretary Steven Mnuchin
- Deputy Secretary Justin Muzinich

Federal Reserve

- Chairman Jerome Powell
- Vice Chairman Richard H. Clarida

Office of Management and Budget

- Acting Director and Deputy Director Russell Vought
- Executive Associate Director Derek Kan

\*American Oversight requests that your agency search only for officials at your agency in the above list. Thus, for example, American Oversight requests that CDC's search include any talking points and materials prepared for Robert Redwood, Anne Schuchat, and Nancy Messonnier, but not Secretary of State Pompeo.

Please provide all responsive records from January 28, 2020, through the date of the search.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."<sup>6</sup> The public has a significant interest in the federal government's response to a national public health emergency.<sup>7</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including how effectively the government is protecting both the health and human rights of

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<sup>6</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>7</sup> *Coronavirus Disease 2019 (COVID-19) Situation Summary*, *supra* note 1.

everyone in the country during this crisis.<sup>8</sup> American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.<sup>9</sup> As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's financial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>10</sup>

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.<sup>11</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;<sup>12</sup> posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>13</sup> posting records regarding potential self-dealing at the Department of Housing &

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<sup>8</sup> *Public Health and Law Experts Issue Guidelines for U.S. Response to Coronavirus*, YALE LAW SCHOOL, <https://law.yale.edu/yls-today/news/public-health-and-law-experts-issue-guidelines-us-response-coronavirus-transmission>.

<sup>9</sup> See 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>10</sup> American Oversight currently has approximately 15,500 page likes on Facebook and 102,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Mar. 3, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Mar. 3, 2020).

<sup>11</sup> *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

<sup>12</sup> *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

<sup>13</sup> See generally *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, AMERICAN OVERSIGHT,

Urban Development and related analysis;<sup>14</sup> posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>15</sup> and posting records and analysis regarding the Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.<sup>16</sup>

Accordingly, American Oversight qualifies for a fee waiver.

### **Guidance Regarding the Search & Processing of Requested Records**

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks "communications," please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.

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<https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

<sup>14</sup> *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

<sup>15</sup> *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

<sup>16</sup> *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.<sup>17</sup> It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.<sup>18</sup>
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,<sup>19</sup> and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the

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<sup>17</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

<sup>18</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

<sup>19</sup> Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

### Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact (b)(6) at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.869.5244. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,



Austin R. Evers  
Executive Director  
American Oversight

**From:** Jacquelyn Elias  
**Sent:** 13 Mar 2020 21:54:40 +0000  
**To:** ICE-FOIA@dhs.gov  
**Subject:** FOIA request for news media

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Good Evening,

I hope you are managing to stay healthy and well during these times.

I've attached below a FOIA request for records and emails related to SEVP-certified postsecondary institutions' reports of procedural adaptations in response to COVID-19.

Thank you for your time, and please do feel free to reach out with any questions on my request.

Best,

Jacquelyn

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Public Information Officer  
U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, S.W., Stop 5009  
Washington, D.C. 20536-5009  
OPEN RECORDS REQUEST

Dear Public Information Officer,

This is a request under the Freedom of Information Act.

Under the Freedom of Information Act, I request that a copy of the following records (or documents containing the following information) be e-mailed to me at

(b)(6)

- A spreadsheet of SEVP-certified postsecondary institutions who have notified SEVP of procedural adaptations in response to COVID-19 from February 15, 2020 to the processing date of this request
- In this spreadsheet, I am requesting the following fields:
  - School name and a unique identifier, preferably IPEDS unitid if that is included in your record-keeping
  - The number of F and M visa students at this school
  - Date that the institution sent in their adapted protocols
  - Name of school official and contact information
  - The procedural changes that will be made
- All emails sent to [SEVP@ice.dhs.gov](mailto:SEVP@ice.dhs.gov) where a school official reported procedural adaptations

I request that these records be provided in an electronic format that can be imported into standard database software, such as Excel or SQL open-source software. If that is not possible, I request that this data be supplied in a common electronic form using delimited text file(s), such as tab-delimited or comma-delimited.

In order to help to determine my status to assess fees, you should know that I am a representative of the news media seeking information as part of a news gathering effort and not for commercial use. This information is being sought on behalf of The Chronicle of Higher Education, a newspaper and news website based in Washington, DC, to inform the public. As such, I request a fee benefit.

If there will be a cost for processing this request, please contact me in advance. I would like an itemized list of the request costs, including the number of hours expected to produce the file and the hourly rate of the employee who would be doing the work.

I would prefer the request be filed electronically, by e-mail attachment if possible or CD-ROM if not. Please send all requested items via email to (b)(6)

If your agency does not maintain these public records, please let me know who does and include the proper custodian's name and address.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

As I am making this request as a journalist and this information is of timely value, I would appreciate your communicating with me by e-mail or telephone, rather than by mail, if you have questions regarding this request.

Thank you for your assistance.

Jacquelyn Elias

The Chronicle of Higher Education

1255 23rd St NW #700

Washington, DC 20037

P: (b)(6)  
E: (b)(6)

Jacquelyn Elias

News App Developer

The Chronicle of Higher Education

1255 23rd St NW Suite 700, Washington, DC 20037

(b)(6)

**From:** Plevin, Rebecca  
**Sent:** 12 Mar 2020 17:34:16 +0000  
**To:** ICE-FOIA@dhs.gov  
**Subject:** FOIA request from the Desert Sun: COVID-19 in detention centers

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Dear FOIA Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of:

- Any record reflecting a Significant Event Notification regarding COVID-19 at all detention centers and specifically at the Adelanto and Mesa Verde detention centers
- Any record reflecting the # of tests conducted at all detention centers, and the Adelanto or Mesa Verde detention centers specifically
- Any record of communication with the CDC regarding vulnerable population guidance at all detention centers
- Any record indicating the total # of cases Immigrant Health Services Corps could treat at all detention centers and in California specifically

I would like to receive the information in electronic format.

I agree to pay reasonable fees for the processing of this request up to \$25. Please notify me before incurring any expenses in excess of that amount.

#### Fee Categorization

For fee categorization purposes, I am a representative of the news media. Through this request, I am gathering information for my journalistic work with The Desert Sun, a daily newspaper in Palm Springs, Calif., part of the USA TODAY Network. Accordingly, I am only required to pay for the direct cost of duplication after the first 100 pages. 5 U.S.C. § 552(a)(4)(A)(ii)(II); id. § 552(a)(4)(A)(iv)(II).

#### Request for Expedited Processing

Please provide expedited processing of this request which concerns a matter of urgency. As a reporter, I am primarily engaged in disseminating information. The public has an urgent need for information about the federal government's capacity to provide health care to immigrant detainees in the midst of a global pandemic. I certify that my statements concerning the need for expedited processing are true and correct to the best of my knowledge and belief.

#### Conclusion

If my request is denied in whole or part, please justify all withholdings by reference to specific exemptions and statutes, as applicable. For each withholding please also explain why your

agency “reasonably foresees that disclosure would harm an interest protected by an exemption” or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8)(A)(i).

I would appreciate your communicating with me by email or telephone, rather than by mail.

I look forward to your determination regarding my request for expedited processing within 10 calendar days, as the statute requires.

Thank you in advance for your assistance.

Sincerely,

Rebecca Plevin

**Rebecca Plevin**

Reporter

The Desert Sun

(b)(6)

**From:** David Bier  
**Sent:** 12 Mar 2020 17:59:13 +0000  
**To:** ice-foia@dhs.gov  
**Subject:** FOIA request

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

This is a Freedom of Information Act request. I am seeking ICE records or documents reflecting the following:

**from ICE - ERO - Immigrant Health Services Corps**

1. Any record reflecting a Significant Event Notification regarding COVID19
2. Any record reflecting the number of tests of aliens for Covid-19 in ICE custody by day
3. Any record of communication with the Centers for Disease Control about vulnerable population guidance for Covid-19.
4. Any record of releases of aliens because they are within a vulnerable population by day
5. Any record of confirmed cases of COVID-19 of persons in ICE custody and their locations by day
6. Any record indicating total number of cases IHSC could treat by day

**To ICE ERO**

1. All communications between DC and Field Offices about an arrest or release where a possible Covid-19 exposure exists.
2. All communications to ERO officers about steps to mitigate risk to themselves and folks they encounter.
3. the number of ICE ERO arrests at hospitals by date
4. Any record with communications about ICE ERO activity at hospitals

- Fee Waiver Justification: I am a policy analyst and scholar at the Cato Institute, an IRS-recognized 501(c)(3) nonprofit educational and public interest organization. As I am employed by an educational or noncommercial scientific institution, this request is made for a scholarly or scientific purpose and not for a commercial use. I request a waiver of all fees for this request.
- Expedited Processing Justification: The records requested are of critical importance to the public and legislative debates around the government's response to Coronavirus or Covid-19, which I am employed full-time to inform. Any delay in the release of this information would irreparably harm my ability to inform the public. This request is not complex, and the records should be readily available to the agency.

Thank you.

David Bier

Policy Analyst

(b)(6)



**From:** Julia Rock  
**Sent:** 13 Mar 2020 11:09:34 -0400  
**To:** ICE-FOIA@dhs.gov  
**Subject:** FOIA

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Pursuant to the Freedom of Information Act, I hereby request the following records:

Please limit the date range on all records from February 23, 2020 to today's date.

- All plans currently in place to address threats posed by the novel coronavirus (known as "COVID-19") in ICE detainees Bristol County Jail/ House of Corrections. This includes, but is not limited to, memos which mention "coronavirus" or "COVID-19," unofficial or official planning materials and protocols, and emails or other correspondence which mention "coronavirus" or "COVID-19" or "pandemic."
- All records of tests administered at the Bristol County Jail/ House of Corrections for ICE detainees for the novel coronavirus ("COVID-19").
- All records of presumptive or confirmed cases of coronavirus in ICE detainees at the Bristol County Jail/ House of Corrections or staff.
- All plans currently in place to address threats posed by the novel coronavirus (known as "COVID-19") at the Wyatt Detention Center. This includes, but is not limited to, memos which mention "coronavirus" or "COVID-19," unofficial or official planning materials and protocols, and emails or other correspondence which mention "coronavirus" or "COVID-19."
- All records of tests administered in ICE detainees at the Wyatt Detention Center for the novel coronavirus ("COVID-19").
- All records of presumptive or confirmed cases of coronavirus in ICE detainees at the Wyatt Detention Center or staff at the Wyatt Detention Center.

If you prepare some records before others, please release them on a rolling basis.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 days, as the statute requires.

Sincerely,  
Julia Rock

**From:** webpublishing@hq.dhs.gov on behalf of WCM DHS  
**Sent:** 13 Mar 2020 00:20:43 -0400  
**To:** ice-foia@dhs.gov  
**Subject:** Form submission from: DHS FOIA / Privacy Act Request Submission Form

Submitted on Friday, March 13, 2020 - 00:20  
Submitted by user: Anonymous  
Submitted values are:

Select the DHS component you wish to submit your request to : U.S. Immigration and Customs Enforcement (ICE)

Title:

First Name: Jeremy

Middle Initial:

Last Name: Jong

Suffix:

Email Address: (b)(6)

Country: United States

Address 1: MuckRock News DEPT MR 90647

Address 2: 41 1A Highland Ave

City: Somerville

State: Massachusetts

Zip Code: 02144

Telephone Number: (b)(6)

Fax Number:

Are you requesting records on yourself? No

If yes, you must check the perjury statement:

By initialing here you are providing your electronic signature.:

Please describe the records you are seeking as clearly and precisely as possible:

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

1. Any electronic communications to and from ICE New Orleans Field Office director (b)(6); (b)(7)(C) containing the words "coronavirus" or "COVID-19." Her email address is (b)(6); (b)(7)(C)
2. Any electronic communications to and from any ICE New Orleans Assistant Field Office director (b)(6); (b)(7)(C) containing the words "coronavirus" or "COVID-19." His email address is (b)(6); (b)(7)(C)
3. Any electronic communications to and from any ICE New Orleans Assistant Field Office director (b)(6); (b)(7)(C) containing the words "coronavirus" or "COVID-19." His email address is (b)(6); (b)(7)(C)
4. Any policy or written memorandum prepared by ICE containing the words "coronavirus" or "COVID-19."

Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government in response to the COVID-19 pandemic.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Jeremy Jong

Upload documents directly:

[https://https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency\\_login%252Fimmigration-and-customs-enforcement-133%252Fcoronavirus-response-90647%252F%253Femail%253DICE-FOIA%252540dhs.gov&url\\_auth\\_token=AAAVK9mH4BSG8tm0HOip57Abyc%3A1jCbmy%3ABJ2toCQyMBzuP6Zl2GsnjEpWcdA](https://https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fimmigration-and-customs-enforcement-133%252Fcoronavirus-response-90647%252F%253Femail%253DICE-FOIA%252540dhs.gov&url_auth_token=AAAVK9mH4BSG8tm0HOip57Abyc%3A1jCbmy%3ABJ2toCQyMBzuP6Zl2GsnjEpWcdA)

I am willing to pay fees for this request up to the amount of: \$: 25

Select from the list below: An individual seeking information for personal use and not for commercial use.

I request a waiver of all fees for this request.:

Please provide an explanation for your request for a fee waiver:

Please select and describe in detail if you believe your request warrants expeditious handling:

Please provide information to support your selection:

**From:** webpublishing@hq.dhs.gov on behalf of WCM DHS  
**Sent:** 4 Mar 2020 07:04:18 -0500  
**To:** ice-foia@dhs.gov  
**Subject:** Form submission from: DHS FOIA / Privacy Act Request Submission Form

Submitted on Wednesday, March 4, 2020 - 07:04  
Submitted by user: Anonymous  
Submitted values are:

Select the DHS component you wish to submit your request to : U.S. Immigration and Customs Enforcement (ICE)

Title: Mr.

First Name: Jakob

Middle Initial: a

Last Name: Nyberg

Suffix:

Email Address: (b)(6)

Country: Sweden

Address 1: Domarevägen 3 A (b)(6)

Address 2:

City: Karlskrona

State:

Zip Code: 37140

Telephone Number: (b)(6)

Fax Number:

Are you requesting records on yourself? No  
If yes, you must check the perjury statement:

By initialing here you are providing your electronic signature.:

Please describe the records you are seeking as clearly and precisely as possible: Emails sent within ICE with the key word coronavirus corona, and covid-19 from the first of januari 2020 until the first of march 2020.

I am willing to pay fees for this request up to the amount of: \$: 25.00

Select from the list below: An individual seeking information for personal use and not for commercial use.

I request a waiver of all fees for this request.: I request a waiver of all fees for this request.

Please provide an explanation for your request for a fee waiver: The handling of this ongoing health crisis in the detention centers if insufficient could lead to a hotbed of infections.

Please select and describe in detail if you believe your request warrants expeditious handling: A harm to substantial humanitarian concerns exists.

Please provide information to support your selection: The handling of this ongoing health crisis in the detention centers if insufficient could lead to a hotbed of infections.

**From:** FOIA Request Form  
**Sent:** 13 Mar 2020 09:04:57 -0700  
**To:** ICE-FOIA  
**Subject:** Form submission from: FOIA Request Form

*This email message contains user responses to your form in two formats. The first section is presented in a layout that is easy to read where the user's response to each question is displayed on the next line. In Section 2, MS Excel Friendly Format, you can export the table rows by "copy and paste" into an MS Excel spreadsheet where you can aggregate, sort and search your user's responses.*

**Submitted on:** Friday, March 13, 2020 - 12:04  
**IP Address:** 184.28.17.8

## Section 1 - Easy-to-Read Format

### Contact Information

**Name (First, MI, Last):** Philip J Kiefer

**Address:**

**City:** New Orleans

**State:** Louisiana

**Zipcode:** 70119

**Daytime Phone Number:**

**Fax Number:**

**Email:**

### Describe the type(s) of document(s) you are requesting

**Enter company name, address, and any other information relevant to the request:**

I would like a copy of all emails sent by employees of the New Orleans Field Office of Immigrations and Customs Enforcement that include the following phrases:

"novel coronavirus"

"COVID-19"

"Wuhan"

Select a suitable description of yourself and the purpose of the request: D. A representative of the news media and this request is made as part of news gathering and not for commercial use.

Enter educational or scientific institution name:

Enter company/firm name:

Enter media company name: Freelance. philipjkiefer.com

Enter the maximum amount that you are willing to pay: Contact me if over \$100

## Section 2 - MS Excel Friendly Format

You can copy and paste the table rows below into an Excel Spreadsheet. Feel free to omit the first row if the columns exist in your spreadsheet already. Don't forget: the column headings map to the parenthetical statement at the end of each question in section 1.

Name (First, Middle, Last):	Address:	City:	State:	Zip code:	Daytime Phone Number:	Fax Number:	Email:	Enter company name, address, and any other information relevant to the request:	Select a suitable description of yourself and the purpose of the request:	Enter educational or scientific institution name:	Enter company/firm name:	Enter media company name:	Enter the maximum amount that you are willing to pay:
Philip J. Kiefer	(b)(6)	New Orleans	Louisiana	70119	(b)(6)		(b)(6)	I would like a copy of all email	D. A representative of the news			(b)(6)	Contact me if over \$100



**From:** FOIA  
**Sent:** 4 Mar 2020 22:17:13 +0000  
**To:** FOIARequest@hhs.gov;FOIARRequests@cdc.gov;nihfoia@mail.nih.gov;foia@niaid.nih.gov;FOIA\_Request@cms.hhs.gov;FOIA@acf.hhs.gov;foiarequest@state.gov;FOIA;edfoiamanager@ed.gov;ICE-FOIA@dhs.gov;FEMA-FOIA;whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil;ost.foia@dot.gov;vacofoiaservice@va.gov;Vhafoia2@va.gov;foiarequests@dol.gov;treasfoia@treasury.gov;OMBFOIA@omb.eop.gov  
**Subject:** [SUSPECTED SPAM] FOIA Request (MULTI-20-0455-0476)  
**Attachments:** MULTI-20-0455-0476.pdf

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Dear FOIA Officers:

Please find attached a request for records under the Freedom of Information Act.

Sincerely,

(b)(6)

Paralegal

American Oversight

[foia@americanoversight.org](mailto:foia@americanoversight.org)

[www.americanoversight.org](http://www.americanoversight.org) | @weareoversight

FOIA: MULTI-20-0455-0476



March 4, 2020

**VIA EMAIL, FOIA ONLINE, ONLINE PORTAL OR FACSIMILE**

Michael Marquis  
Freedom of Information Officer  
Department of Health and Human  
Services  
Hubert H. Humphrey Building, Room  
729H  
200 Independence Avenue SW  
Washington, DC 20201  
[FOIARequest@hhs.gov](mailto:FOIARequest@hhs.gov)

Freedom of Information Officer  
U.S. Centers for Disease Control and  
Prevention  
1600 Clifton Road NE  
Building 57, Room MS D-54  
Atlanta, GA 30333  
[FOIARequests@cdc.gov](mailto:FOIARequests@cdc.gov)

NIH FOIA Office  
Building 31 Room 5B35  
31 Center Drive, MSC 2107  
Bethesda, MD 20892  
[nihfoia@mail.nih.gov](mailto:nihfoia@mail.nih.gov)

Robin Schofield  
National Institute of Allergy and  
Infectious Diseases  
Room 6G51  
5601 Fishers Lane  
Rockville, MD 20892  
[foia@niaid.nih.gov](mailto:foia@niaid.nih.gov)

Sarah Kotler  
Freedom of Information Officer  
Food and Drug Administration  
5630 Fishers Lane, Room 1035  
Rockville, MD 20857  
Facsimile: (301) 827-9267

Hugh Gilmore  
Freedom of Information Officer  
Centers for Medicare & Medicaid  
Services  
North Building, Room N2-20-06  
7500 Security Boulevard  
Baltimore, MD 21244  
[FOIA\\_Request@cms.hhs.gov](mailto:FOIA_Request@cms.hhs.gov)

Freedom of Information Officer  
Administration for Children & Families  
U.S. Department of Health and Human  
Services  
330 C Street SW  
Washington, DC 20201  
[FOIA@acf.hhs.gov](mailto:FOIA@acf.hhs.gov)

Office of Information Programs and  
Services  
U.S. Department of State  
A/GIS/IPS/RL  
SA-2, Suite 8100  
Washington, DC 20522  
[foiarequest@state.gov](mailto:foiarequest@state.gov)

Chief Privacy Officer/Chief FOIA Officer  
The Privacy Office  
U.S. Department of Homeland Security  
245 Murray Lane SW  
Washington, DC 20528  
[foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)

FOIA Public Liaison  
U.S. Department of Education  
Office of Management  
Office of the Chief Privacy Officer  
400 Maryland Avenue SW, LBJ 2E320  
Washington, DC 20202-4536  
[edfoiamanager@ed.gov](mailto:edfoiamanager@ed.gov)



U.S. Immigration and Customs  
Enforcement  
Freedom of Information Act Office  
500 12th Street SW, Stop 5009  
Washington, DC 20536-5009  
[ICE-FOIA@dhs.gov](mailto:ICE-FOIA@dhs.gov)

FEMA Information Management  
Division  
FOIA Request  
500 C Street SW, Mailstop 3172  
Washington, DC 20472  
[fema-foia@fema.dhs.gov](mailto:fema-foia@fema.dhs.gov)

Stephanie Carr  
OSD/JS FOIA Requester Service Center  
Office of Freedom of Information  
U.S. Department of Defense  
1155 Defense Pentagon  
Washington, DC 20301-1155  
[whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil](mailto:whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil)

Michael Bell  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
W94-122  
Washington, DC 20590  
[ost.foia@dot.gov](mailto:ost.foia@dot.gov)

U.S. Department of Housing and Urban  
Development  
Freedom of Information Act Office  
451 7th Street SW, Room 10139  
Washington, DC 20410-3000  
Via Online Portal

U.S. Department of Veterans Affairs  
810 Vermont Avenue NW  
(005RIC) VACO  
Washington, DC 20420  
[vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

Michael Sarich  
Veterans Health Administration

U.S. Department of Veterans Affairs  
810 Vermont Avenue NW  
(10P2C1) VACO  
Washington, DC 20420  
[Vhafoia2@va.gov](mailto:Vhafoia2@va.gov)

FOIA Officer  
U.S. Customs and Border Protection  
90 K Street NE  
FOIA Division  
Washington, DC 20229  
Via FOIAOnline

Departmental FOIA Officer  
U.S. Department of Commerce  
Office of Privacy and Open Government  
14th and Constitution Avenue NW  
Mail Stop 52010FB  
Washington, DC 20230  
Via FOIA Online

Office of the Secretary  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210  
[foiarequests@dol.gov](mailto:foiarequests@dol.gov)

Ryan Law  
FOIA and Transparency  
Department of the Treasury  
Washington, DC 20220  
[treasfoia@treasury.gov](mailto:treasfoia@treasury.gov)

Information Disclosure Section  
Board of Governors of the Federal  
Reserve System  
20th & Constitution Avenue NW  
Washington, DC 20551  
Facsimile: (202) 872-7565

FOIA Officer  
Office of Management and Budget  
725 17th Street NW, Suite 9204  
Washington, DC 20503  
[OMBFOIA@omb.eop.gov](mailto:OMBFOIA@omb.eop.gov)

## Re: Freedom of Information Act Request

Dear FOIA Officers:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

The outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, COVID-19, has been declared a public health emergency at both the national and international levels.<sup>1</sup> Since late 2019, the virus has spread to dozens of countries, sickened tens of thousands of people, and resulted in thousands of deaths.<sup>2</sup> This is a rapidly evolving situation that is demanding coordinated attention and action across the federal government. Yet the Trump administration has so far failed to ensure timely availability of testing kits for healthcare providers,<sup>3</sup> prevented health experts from speaking about the growing crisis,<sup>4</sup> and removed information on the spread of the virus from public health resources.<sup>5</sup>

American Oversight seeks records with the potential to shed light on this matter.

### Requested Records

American Oversight requests that your agency produce the following records within twenty business days:

All daily briefings or situation reports (or other similar updates designed to keep leadership apprised of breaking events) prepared for, or otherwise provided to, the leadership of your agency that contain information regarding the ongoing coronavirus outbreak.

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<sup>1</sup> *Coronavirus Disease 2019 (COVID-19) Situation Summary*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>.

<sup>2</sup> *Coronavirus Live Updates: W.H.O Says Covid-19 Has Higher Fatality Rate Than the Flu*, N.Y. TIMES, Mar. 4, 2020, [https://www.nytimes.com/2020/03/04/world/coronavirus-news.html?action=click&pg\\_type=Article&state=default&module=stylncoronavirus&variant=show&region=TOP\\_BANNER&context=storyline\\_menu](https://www.nytimes.com/2020/03/04/world/coronavirus-news.html?action=click&pg_type=Article&state=default&module=stylncoronavirus&variant=show&region=TOP_BANNER&context=storyline_menu).

<sup>3</sup> Alice Park, *Responding to Coronavirus Testing Problems, U.S. Government Expands Number of Labs That Can Run Tests* (Mar. 2, 2020, updated 1:50 PM EST), TIME, <https://time.com/5793605/coronavirus-testing-united-states/>.

<sup>4</sup> Michael Shear and Maggie Haberman, *Pence Will Control All Coronavirus Messaging from Health Officials*, N.Y. TIMES, Feb. 27, 2020, <https://www.nytimes.com/2020/02/27/us/politics/us-coronavirus-pence.html>.

<sup>5</sup> Brianna Ehley, *Trump's Team Shifts Tone from Preventing Coronavirus to Containing It*, POLITICO (Mar. 2, 2020, 7:52 PM), <https://www.politico.com/news/2020/03/02/trump-coronavirus-pence-119051>.



At a minimum, responsive records should include daily briefings or situational reports prepared for the following agency officials\*:

Department of Health and Human Services:

- Secretary Alex Azar
- Assistant Secretary for Preparedness and Response Robert Kadlec
- Assistant Secretary for Health Brett Giroir
- Surgeon General Jerome Adams
- Director of the Biomedical Advanced Research and Development Authority Rich Bright

Centers for Disease Control and Prevention:

- Director Robert Redfield
- Principal Deputy Director Anne Schuchat
- Director of the National Center for Immunization and Respiratory Diseases Nancy Messonnier
- Deputy Director for Infectious Diseases Jay C. Butler

National Institute for Health

- Director Francis Collins
- Director of the National Institute of Allergy and Infectious Diseases Anthony Fauci

Food and Drug Administration

- Commissioner Stephen Hahn
- Principal Deputy Commissioner Amy Abernethy
- Director of the Center for Drug Evaluation and Research Janet Woodcock
- Director of the Center for Devices and Radiological Health Jeff Shuren

Centers for Medicare and Medicaid Services

- Administrator Seema Verma
- Deputy Administrator Brady Brookes

Administration for Children and Families

- Assistant Secretary Lynn Johnson
- Principal Deputy Assistant Secretary Scott Lekan
- Anyone serving in the role of Deputy Assistant Secretary for External Affairs

Department of State

- Secretary Mike Pompeo
- Deputy Secretary Stephen Biegun
- Deputy Assistant Secretary Jonathan Fritz

- Principal Deputy Assistant Secretary Ian Brownlee
- Executive Director William A. Walters

Department of Defense

- Secretary Mark Esper
- Gen. Mark A. Milley

Department of Homeland Security

- Acting Secretary Chad Wolf
- Acting Deputy Secretary Ken Cuccinelli
- Acting Under Secretary for Science and Technology William Bryan

Customs and Border Patrol

- Acting Commissioner Mark Morgan
- Deputy Commissioner Robert E. Perez

Immigration and Customs Enforcement

- Acting Director Matthew T. Albence

Federal Emergency Management Agency

- Administrator Pete T. Gaynor
- Acting Deputy Administrator Daniel Kaniewski

Department of Transportation

- Secretary Elaine Chao
- Acting Under Secretary for Policy Joel Szabat

Department of Housing and Urban Development

- Secretary Ben Carson

Department of Veterans Affairs

- Secretary Robert Wilkie
- Executive in Charge Richard Stone

Department of Education

- Secretary Betsy DeVos
- Deputy Secretary Mick Zais

Department of Commerce

- Secretary Wilbur Ross
- Deputy Secretary Karen Dunn Kelley

Department of Labor

- Secretary Eugene Scalia
- Deputy Secretary Patrick Pizzella

- Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health Loren Sweatt

Department of Treasury

- Secretary Steven Mnuchin
- Deputy Secretary Justin Muzinich

Federal Reserve

- Chairman Jerome Powell
- Vice Chairman Richard H. Clarida

Office of Management and Budget

- Acting Director and Deputy Director Russell Vought
- Executive Associate Director Derek Kan

\*American Oversight requests that your agency search only for officials at your agency in the above list. Thus, for example, American Oversight requests that CDC's search include any daily briefings or situational reports prepared for Robert Redwood, Anne Schuchat, and Nancy Messonnier, but not Secretary of State Pompeo.

Please provide all responsive records from January 28, 2020, through the date of the search.

**Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government."<sup>6</sup> The public has a significant interest in the federal government's response to a national public health emergency.<sup>7</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including how effectively the government is protecting both the health and human rights of

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<sup>6</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>7</sup> *Coronavirus Disease 2019 (COVID-19) Situation Summary*, *supra* note 1.

everyone in the country during this crisis.<sup>8</sup> American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.<sup>9</sup> As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight's financial interest. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>10</sup>

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.<sup>11</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;<sup>12</sup> posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>13</sup> posting records regarding potential self-dealing at the Department of Housing &

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<sup>8</sup> *Public Health and Law Experts Issue Guidelines for U.S. Response to Coronavirus*, YALE LAW SCHOOL, <https://law.yale.edu/yls-today/news/public-health-and-law-experts-issue-guidelines-us-response-coronavirus-transmission>.

<sup>9</sup> See 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>10</sup> American Oversight currently has approximately 15,500 page likes on Facebook and 102,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Mar. 3, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Mar. 3, 2020).

<sup>11</sup> *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

<sup>12</sup> *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

<sup>13</sup> See generally *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, AMERICAN OVERSIGHT,

Urban Development and related analysis;<sup>14</sup> posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>15</sup> and posting records and analysis regarding the Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.<sup>16</sup>

Accordingly, American Oversight qualifies for a fee waiver.

### **Guidance Regarding the Search & Processing of Requested Records**

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics. For instance, if the request seeks "communications," please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions.

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<https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

<sup>14</sup> *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

<sup>15</sup> *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

<sup>16</sup> *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.<sup>17</sup> It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.<sup>18</sup>
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,<sup>19</sup> and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency’s archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the

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<sup>17</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

<sup>18</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

<sup>19</sup> Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

### Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact <sup>(b)(6)</sup> [redacted] at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.869.5244. Also, if American Oversight's request for a fee waiver is not granted in full, please contact us immediately upon making such a determination.

Sincerely,



Austin R. Evers  
Executive Director  
American Oversight

**From:** Olivia Kohrs  
**Sent:** 6 Mar 2020 16:22:51 -0700  
**To:** ice-foia@dhs.gov;EOIR.FOIARequests@usdoj.gov;FOIA, USCIS  
**Cc:** (b)(6)  
**Subject:** FOIA Request - ICE, USCIS, EOIR  
**Attachments:** 2020.03.06 FOIA Request (ICE, EOIR, USCIS).pdf

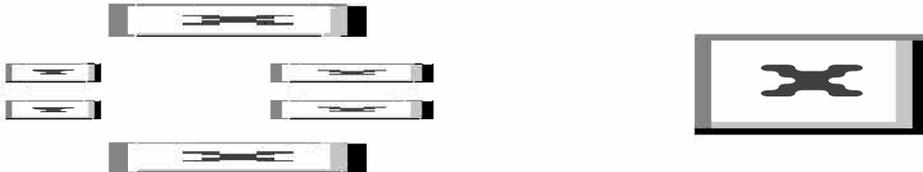
**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

To whom it may concern,

Please find attached a Freedom of Information Act Request for ICE, USCIS, and EOIR. Please feel free to reach out if you have any questions.

All the best,  
Olivia Kohrs

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**CONFIDENTIALITY NOTICE:** This email is intended only for the review of the party to whom it is addressed. It may contain confidential, proprietary or information that is privileged under state or federal law. If you received this email in error or if you are not the intended recipient, please delete the email and any attachments without reading, printing, copying or forwarding them, and please notify me. If you are not the intended recipient of this email, please be aware that any disclosure, copying, distribution or use of the contents of the email and any attachments is without authorization and is prohibited. Unintended transmission shall not constitute a waiver of the confidential or proprietary nature of the contents of the email, nor shall it constitute a waiver of any applicable privilege.



VIA ELECTRONIC MAIL (ice-foia@dhs.gov; EOIR.FOIARequests@usdoj.gov;  
uscis.foia@uscis.dhs.gov)

March 6, 2020

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street, SW, Stop 5009  
Washington, D.C. 20536-5009

U.S. Department of Justice  
Executive Office for Immigration Review  
Office of General Counsel – FOIA Service Center  
5107 Leesburg Pike, Suite 2150  
Falls Church, VA 22041

U.S. Citizenship and Immigration Services  
National Records Center, FOIA/PA Office  
P.O. Box 648010  
Lee's Summit, MO 64064-8010

**RE: Freedom of Information Act Request**

To whom it may concern,

This letter constitutes a request under the Freedom of Information Act (FOIA). *See* 5 U.S.C. § 552, *et seq.*; 6 C.F.R. § 5.1, *et seq.*; 28 C.F.R. § 16.1, *et seq.* Please provide us with a complete copy of all of the following records:

1. Any and all policies and memoranda regarding a potential epidemic outbreak or infectious spread of disease or virus.
2. Any and all internal communications to and/or from ICE Field Office Directors, EOIR Immigration Judges in Colorado, USCIS Colorado Field Office Director, or USCIS District Director Central Region, regarding any policies, procedures, or protocols related to an epidemic outbreak or infectious spread of disease or virus, including but not limited to emails, written correspondence, memos, studies, and reports, from January 1, 2019, to present.
3. Any and all internal communications, to and/or from ICE, EOIR, or USCIS employees in Colorado regarding the coronavirus or COVID-19, including but not limited to emails, written correspondence, memos, studies, and reports.
4. Any and all records used to train ICE, EOIR, USCIS employees, staff, or others, who work in Colorado, about policies, procedures, or protocols regarding an epidemic outbreak or infectious spread of disease or virus.



5. Any and all records indicating the process by which an individual in the custody of the ICE will be screened and diagnosed in the event of an epidemic outbreak or infectious spread of disease or virus.
6. Any and all records indicating the process by which an individual in the custody of the ICE will be quarantined in the event of an epidemic outbreak or infectious spread of disease or virus.
7. Any and all records indicating the services, including medical services, that will be provided to an individual in the custody of the ICE in the event of an epidemic outbreak or infectious spread of disease or virus.
8. Any and all policies and memoranda regarding the tracking, recording, or reporting of data related to an epidemic outbreak or infectious spread of disease or virus by ICE, EOIR, or USCIS.
9. Any and all records indicating the process by which an ICE, EOIR, or USCIS employee will be screened during an epidemic outbreak or infectious spread of disease or virus.

The term "records" as used herein includes all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

The term "epidemic outbreak" or "infectious spread of disease," as used herein, is intended to encompass any spread of a disease or virus.

If this request is denied in whole or in part, please justify all deletions or omissions by reference to specific exemptions to FOIA. We expect the release of all segregable portions of otherwise exempt material, and we reserve the right to appeal a decision to withhold any information.

Thank you for your prompt attention to this matter. If the records are available in electronic form or can be scanned and sent my email, we request those records solely by electronic means sent to [olivia@novo-legal.com](mailto:olivia@novo-legal.com). If the records are not available in electronic format, please mail the records to:

Olivia Kohrs  
Novo Legal Group  
4280 Morrison Road  
Denver, CO 80219

If you have any questions about this request, please do not hesitate to call me at (303)335-(b)(6)

Sincerely,

Olivia Kohrs

**From:** FOIA  
**Sent:** 5 Mar 2020 19:54:04 +0000  
**To:** ICE-FOIA@dhs.gov  
**Subject:** FOIA Request (DHS-ICE-20-0505)  
**Attachments:** DHS-ICE-20-0505.pdf

**CAUTION:** This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Dear FOIA Officer:

Please find attached a request for records under the Freedom of Information Act.

Sincerely,

(b)(6)

Paralegal

American Oversight

[foia@americanoversight.org](mailto:foia@americanoversight.org)

[www.americanoversight.org](http://www.americanoversight.org) | @weareoversight

FOIA: DHS-ICE-20-0505



March 5, 2020

**VIA EMAIL**

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street SW, Stop 5009  
Washington, DC 20536-5009  
[ICE-FOIA@dhs.gov](mailto:ICE-FOIA@dhs.gov)

**Re: Freedom of Information Act Request**

Dear FOIA Officer(s):

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

The outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, COVID-19, has been declared a public health emergency at both the national and international levels.<sup>1</sup> Since late 2019, the virus has spread to dozens of countries, sickened tens of thousands of people, and resulted in thousands of deaths.<sup>2</sup> This is a rapidly evolving situation that is demanding coordinated attention and action across the federal government. Yet the Trump administration has so far failed to ensure timely availability of testing kits for healthcare providers,<sup>3</sup> prevented health experts from speaking about the growing crisis,<sup>4</sup> and removed information on the spread of the virus from public health resources.<sup>5</sup>

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<sup>1</sup> *Coronavirus Disease 2019 (COVID-19) Situation Summary*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>.

<sup>2</sup> *Coronavirus Live Updates: W.H.O Says Covid-19 Has Higher Fatality Rate Than the Flu*, N.Y. TIMES, Mar. 4, 2020, [https://www.nytimes.com/2020/03/04/world/coronavirus-news.html?action=click&pgtype=Article&state=default&module=stylncoronavirus&variant=show&region=TOP\\_BANNER&context=storyline\\_menu](https://www.nytimes.com/2020/03/04/world/coronavirus-news.html?action=click&pgtype=Article&state=default&module=stylncoronavirus&variant=show&region=TOP_BANNER&context=storyline_menu).

<sup>3</sup> Alice Park, *Responding to Coronavirus Testing Problems, U.S. Government Expands Number of Labs That Can Run Tests* (Mar. 2, 2020, updated 1:50 PM EST), TIME, <https://time.com/5793605/coronavirus-testing-united-states/>.

<sup>4</sup> Michael Shear & Maggie Haberman, *Pence Will Control All Coronavirus Messaging from Health Officials*, N.Y. TIMES, Feb. 27, 2020, <https://www.nytimes.com/2020/02/27/us/politics/us-coronavirus-pence.html>.

<sup>5</sup> Brianna Ehley, *Trump's Team Shifts Tone from Preventing Coronavirus to Containing It*, POLITICO (Mar. 2, 2020, 7:52 PM), <https://www.politico.com/news/2020/03/02/trump-coronavirus-pence-119051>.



American Oversight seeks records with the potential to shed light on how the administration is handling this public health emergency.

### **Requested Records**

American Oversight requests that your agency produce the following records within twenty business days:

All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar invitation attachments) between (a) the Acting Director Matthew T. Albence or anyone serving as White House Liaison or agency point of contact for the coronavirus task force, and (b) the Executive Office of the President officials listed below:

- i. Vice President Mike Pence
- ii. National Security Advisor Robert O'Brien
- iii. Assistant to the President and Deputy National Security Advisor Matthew Pottinger
- iv. Assistant to the President and Senior Advisor to the Chief of Staff Robert Blair
- v. Assistant to the President and Director of the Domestic Policy Council Joseph Grogan
- vi. Assistant to the President and Deputy Chief of Staff for Policy Coordination Christopher Liddell
- vii. Director of the National Economic Council Larry Kudlow
- viii. White House Coronavirus Response Coordinator Deborah Birx
- ix. Press Secretary Katie Miller (formerly Katie Waldman)
- x. Director of the White House Office of Science and Technology Policy Kelvin Droegmeier

Please provide all responsive records from January 30, 2020, through the date of the search.

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, the request is primarily and fundamentally for non-commercial purposes.

American Oversight requests a waiver of fees because disclosure of the requested information is "in the public interest because it is likely to contribute significantly to

public understanding of operations or activities of the government.”<sup>6</sup> The public has a significant interest in the federal government’s response to a national public health emergency.<sup>7</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including how effectively the government is protecting both the health and human rights of everyone in the country during this crisis.<sup>8</sup> American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the public’s understanding of the government’s activities would be enhanced through American Oversight’s analysis and publication of these records.

This request is primarily and fundamentally for non-commercial purposes.<sup>9</sup> As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the information requested is not in American Oversight’s financial interest. American Oversight’s mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>10</sup>

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.<sup>11</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department’s process for issuing such waivers;<sup>12</sup> posting records received as part of American Oversight’s “Audit the Wall”

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<sup>6</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>7</sup> *Coronavirus Disease 2019 (COVID-19) Situation Summary*, , *supra* note 1.

<sup>8</sup> *Public Health and Law Experts Issue Guidelines for U.S. Response to Coronavirus*, YALE LAW SCHOOL, <https://law.yale.edu/yls-today/news/public-health-and-law-experts-issue-guidelines-us-response-coronavirus-transmission>.

<sup>9</sup> See 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>10</sup> American Oversight currently has approximately 15,500 page likes on Facebook and 102,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Mar. 3, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Mar. 3, 2020).

<sup>11</sup> *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

<sup>12</sup> *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>; *Francisco & the Travel Ban: What We Learned from the DOJ Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/francisco-the-travel-ban-what-we-learned-from-the-doj-documents>.

project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>13</sup> posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;<sup>14</sup> posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>15</sup> and posting records and analysis regarding the Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.<sup>16</sup>

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- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as

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<sup>13</sup> See generally *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>; see, e.g., *Border Wall Investigation Report: No Plans, No Funding, No Timeline, No Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/border-wall-investigation-report-no-plans-no-funding-no-timeline-no-wall>.

<sup>14</sup> *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

<sup>15</sup> *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

<sup>16</sup> *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

personal email accounts or text messages. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.<sup>17</sup> It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.<sup>18</sup>

- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,<sup>19</sup> and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

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<sup>17</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

<sup>18</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

<sup>19</sup> Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

## Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

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Sincerely,



Austin R. Evers  
Executive Director  
American Oversight