



July 11, 2018

VIA ELECTRONIC MAIL

FOIA Officer
Office of Government Ethics
Suite 500
1201 New York Avenue, N.W.
Washington, DC 20005-3917
usoge@oge.gov

Re: Freedom of Information Act Request

Dear Freedom of Information Act Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Office of Government Ethics (OGE)'s implementing regulations, 5 C.F.R. Part 2604, American Oversight makes the following request for records.

Requested Records

American Oversight requests that OGE produce the following within twenty business days:

1. Communications between Walter Shaub, Director of the OGE, and any officials at the U.S. Department of Justice ("DOJ") regarding Jeff Sessions for the period beginning January 1, 2017, to June 30, 2017.
2. Communications between any officials at OGE other than Walter Shaub and any officials at DOJ regarding Jeff Sessions for the period beginning January 1, 2017, to June 30, 2017.

Please note that this request excludes any communications related to Jeff Sessions' financial disclosure.

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 it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.¹ Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

¹ *Mead Data Central*, 566 F.2d at 261.

To ensure that this request is properly construed, we welcome an opportunity to discuss this request with you before you finalize your response. By working together at the outset, we can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF 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, please also provide responsive material on a rolling basis.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 5 C.F.R. § 2604.503(c), 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.²

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 the operations or activities of the Government.”³ The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how public funds are spent and how officials conduct the public’s business. Communications between the top OGE official and the top DOJ official undoubtedly reveal the operations of the federal government. Moreover, there is a keen public interest in the extent to which the Attorney General, the country’s chief law enforcement officer, has complied with advice regarding conforming his conduct to legal and ethical requirements. Given American Oversight’s mission to disseminate information, addressed below, providing this information to American Oversight would significantly enhance the public’s ability to evaluate the information in these records.

This request is primarily and fundamentally for non-commercial purposes.⁴ 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.⁵ American

² 5 U.S.C. § 552(a)(4)(A)(iii).

³ 5 U.S.C. § 552(a)(4)(A)(iii); 5 C.F.R. § 2604.503(c)(1)(i)-(iv).

⁴ 5 U.S.C. § 552(a)(4)(A)(iii); 5 C.F.R. § 2604.503(c)(2)(i)-(ii).

⁵ American Oversight currently has approximately 11,800 page likes on Facebook and 43,900 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 28, 2018); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 28, 2018).

Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior DOJ attorney,⁶ American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.⁷ As another example, American Oversight has a project called "Audit the Wall," where the organization is gathering and analyzing information and commenting on public releases of information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.⁸

Accordingly, this request qualifies for a fee waiver.

Conclusion

We share a common mission to promote transparency in government. We look forward to working with OGE on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Sara Creighton at foia@americanoversight.org or 202.869.5245. 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

⁶ *DOJ Civil Division Response Noel Francisco Compliance*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

⁷ *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>.

⁸ *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>.