



July 27, 2020

VIA ELECTRONIC MAIL

Open Records Custodian
Office of the Secretary of State
214 State Capitol
Atlanta, Georgia 30334
openrecords@sos.ga.gov

Re: Open Records Law Request

Dear Records Custodian:

Pursuant to the Georgia Open Records Law (O.C.G.A. § 50-18-70 *et seq.*), the League of Women Voters of Georgia (LWVGA), the League of Women Voters of the U.S. (LWVUS), and American Oversight (together, Requesters) make the following request for copies of records.

Requested Records

Requesters ask that the Department of Law produce the following records:

Records sufficient to show the costs your office has incurred and expended in connection with the lawsuit *Thompson, et al v. Kemp* No. 1:17-cv-01427 (N.D. Ga.), including but not limited to your office's representation of former Secretary of State Brian Kemp and the State of Georgia in that suit. Specifically, Requesters seek records sufficient to show the following:

1. The number of attorney hours spent on the case;
2. The number of non-attorney (such as paralegal or legal assistant) staff hours spent on the case;
3. Costs incurred and expended in connection with time spent by state-employed attorneys on the case, including but not limited to:¹
 - a. General Counsel, Office of the Secretary of State, Ryan Germany

¹ Requesters believe your office is in the best position to know how the cost of attorneys' time in your office is calculated and recorded. Responsive records would include, for example, records that show the number of billable hours attorneys spent on the case and their billable rates or annual salaries.



- b. Any attorneys in the Office of the Secretary of State who handled the case;
4. Costs incurred and expended in connection with non-attorney staff members' time spent on the case;
5. Costs incurred and expended for any outside counsel engaged to work on the case, including but not limited to:
 - a. John J. Park, Jr., Strickland Brockington Lewis LLP (jjp@sblaw.net)
 - b. Anne Ware Lewis, formerly of Strickland Brockington Lewis LLP (awl@sblaw.net)
 - c. Frank B. Strickland, Taylor English Duma LLP (fstrickland@taylorenghish.com)
 - d. Bryan P. Tyson, Taylor English Duma LLP (btyson@taylorenghish.com)
6. Agreements with outside counsel, including but not limited to engagement letters or agreements and/or cost sharing agreements;
7. Costs incurred and expended for any experts and consultants associated with the case, including any who provided formal or informal analysis or reports, helped the Attorney General's team prepare for trial, who participated in and/or testified at hearings or the trial itself, or who were involved in the resolution of the case, including carrying out any remedial measures agreed to by the parties or ordered by the Court;
8. Any litigation costs incurred and expended, including but not limited to, filing fees, court costs, copies, and vendor expenses;
9. Agreements on cost-sharing with any state or local agency;
10. Any amounts paid to plaintiffs or other parties in connection with any resolution of this case, whether through settlement agreement or court order.

Requesters seek any records, to the extent they exist, reflecting total costs incurred for the categories of expenses listed above and other expenses your office may have incurred in connection with this litigation. To the extent any records that aggregate all or some of the costs exist, Requesters specifically request those records. In addition, Requesters believe records such as time and/or billing records, budgets, appropriations or budget requests, engagement agreements, vendor contracts, invoices, receipts, or memoranda or reports discussing the cost of the litigation would be responsive to this request. Requesters are available to discuss this request and the categories of records your office may have in its possession,

custody, or control and the most efficient means of identifying the most relevant records.

Please provide all responsive records from January 1, 2017 to January 1, 2019.

Please notify Requesters of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

Guidance Regarding the Search & Processing of Requested Records

Requesters seek all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term “record” in its 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. Our request includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

Please search all locations and systems likely to have responsive records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Records prepared, maintained, or received by any individual or entity conducting government business or who has a contract with a state agency constitute records for purposes of Georgia’s public records laws.²

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.³ 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. If a request is denied in whole, please state specifically that 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.

² O.C.G.A. § 50-18-70(a)(2); *see also* Hackworth v. Board of Education for the City of Atlanta, 214 Ga. App. 17, 447 S.E.2d 78 (1994).

³ O.C.G.A. § 50-18-72(b).

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 Requesters, please do not hesitate to contact the American Oversight to discuss this request. Requesters welcome 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, Requesters and your office 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, please also provide responsive material on a rolling basis.

We look forward to working with your agency on this request. If you do not understand any part of this request, please contact Khahilia Shaw at American Oversight, at records@americanoversight.org or 202.539.6507.

Sincerely,



Austin R. Evers
Executive Director
American Oversight



Susannah Scott
President
League of Women Voters of Georgia



Jessica Jones Capparell
Policy & Legislative Affairs Senior Manager
League of Women Voters of the United States