



July 22, 2020

VIA ELECTRONIC MAIL

Meagan Wolfe, Administrator
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, WI 53707-7984
elections@wi.gov

Re: Public Information Request

Dear Public Information Officer:

Pursuant to Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for public records.

On March 27, 2020, President Donald Trump signed the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) into law.¹ This Act includes \$400 million in Help America Vote Act (HAVA) emergency election funds to prepare for and administer the 2020 federal election.² The Wisconsin Elections Commission (WEC) was allocated these funds on April 6, 2020 and WEC subsequently created a subgrant program for the distribution of the funds.³

American Oversight seeks records to shed light on how Wisconsin is distributing and utilizing CARES Act funds in preparation for the November 3, 2020 election.

Requested Records

American Oversight requests that your office produce the following records “as soon as practicable and without delay”:⁴

1. Any guidance sent to county election officials regarding funding afforded through the CARES Act. This request includes, but is not limited to, guidance regarding the process of requesting CARES Act funds and the timeline of distributing the funds.

¹ *EAC Expediting Distribution of \$400 Million in CARES Act Election Funding for Coronavirus Response*, U.S. Election Assistance Comm’n, <https://www.eac.gov/news/2020/04/03/eac-expediting-distribution-400-million-cares-act-election-funding-coronavirus>.

² *Id.*

³ *WEC CARES Subgrant Program Announcement*, Wis. Elections Comm’n <https://elections.wi.gov/WEC-CARES-subgrant>.

⁴ Wis. Stat. § 19.35(4)(a).



2. Records sufficient to identify how funds afforded through the CARES Act are being distributed and spent, including the recipient of the funds (for example, a county), the date of funding distribution, the amount distributed, and what the funds were used to purchase.

To the extent your agency maintains this data in aggregated form, such as in a spreadsheet or within a database or other format that can be readily exported to a spreadsheet, American Oversight requests responsive data in such format.

3. The WEC CARES Expenditures Reporting template and all completed and returned copies.
4. All email communications (including email messages, complete email chains, email attachments, calendar invitations, and any attachments thereto) sent by any of the officials or employees listed below containing any of the key terms listed below.

Wisconsin Elections Commission Officials:

- a. Meagan Wolfe, Wisconsin Elections Commission Administrator, or anyone communicating on her behalf (such as a scheduler or assistant)
- b. Marge Bostelmann, Wisconsin Elections Commission Secretary, or anyone communicating on her behalf (such as a scheduler or assistant)
- c. Julie Glancey, Wisconsin Elections Commissioner, or anyone communicating on her behalf (such as a scheduler or assistant)
- d. Ann Jacobs, Wisconsin Elections Commission Chair, or anyone communicating on her behalf (such as a scheduler or assistant)
- e. Dean Knudson, Wisconsin Elections Commissioner, or anyone communicating on his behalf (such as a scheduler or assistant)
- f. Robert Spindell, Wisconsin Elections Commissioner, or anyone communicating on his behalf (such as a scheduler or assistant)
- g. Mark Thomsen, Wisconsin Elections Commission Vice-Chair, or anyone communicating on his behalf (such as a scheduler or assistant)

Key Terms:

- a. "Help America Vote Act"
- b. HAVA
- c. "CARES Act"
- d. "CARES funding"
- e. "Personal protective equipment"
- f. PPE
- g. "Election Assistance Commission"
- h. EAC

i. “Subgrant program”

In an effort to accommodate your agency and reduce the number of responsive records to be processed and produced, American Oversight has limited item 3 of its request to communications sent by the listed custodians. To be clear, however, American Oversight still requests that complete email chains be produced, displaying the sent messages, the prior received messages, and any subsequent messages in each email chain. This means that a custodian’s response to an email, the initial received message, and any prior or subsequent messages within the same email thread are responsive to this request and should be produced.

Please provide all responsive records from March 27, 2020, to the date the search is conducted.

American Oversight insists that your office use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; governmental authorities may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all 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.** Emails conducting government business sent or received on the personal account of a governmental authority’s officer or employee constitutes a record for purposes of Wisconsin’s public records laws.⁵

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. 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 your office 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.

⁵ Wisc. Dep’t of J., *Wisconsin Public Records Law Compliance Guide*, Oct. 2019, at 3, <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, 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 your office 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 to American Oversight, please also provide responsive material on a rolling basis.

Fee Waiver Request

In accordance with Wis. Stat. § 19.35(3)(e), American Oversight respectfully requests that the records be produced without charge. Providing American Oversight with a waiver of fees is in the “public interest” because American Oversight will, in accordance with its organizational mission, make the records available to the public without charge. These disclosures will likely contribute to a better understanding of relevant government procedures by the general public.

American Oversight’s work is aimed solely at serving the public interest. 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. Rather, American Oversight’s mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring 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 website⁶ and promotes their availability on social media platforms, such as Facebook and Twitter.⁷ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁸

The public has a significant interest in understanding the actions of Wisconsin’s public officials in managing an election amid an ongoing public health crisis.⁹ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including how funds allocated for election administration are being distributed and

⁶ *Documents*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/documents>.

⁷ American Oversight currently has approximately 16,300 followers on Facebook and 104,100 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited July 15, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited July 15, 2020).

⁸ *News*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

⁹ *Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty*, N.Y. TIMES, Apr. 7, 2020, <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html?action=click&module=Top%20Stories&pgtype=Homepage>.

utilized in Wisconsin. American Oversight is committed to transparency and makes the responses agencies provide to public records 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.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with your office 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 Emma Lewis at records@americanoversight.org or (202) 919-6303.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal flourish extending to the left.

Austin R. Evers
Executive Director
American Oversight