



October 5, 2020

**VIA EMAIL**

Privacy Office  
Department of Homeland Security  
245 Murray Lane SW  
STOP-0655  
Washington, DC 20528  
[foia@hq.dhs.gov](mailto:foia@hq.dhs.gov)

FOIA Office  
U.S. Citizenship and Immigration Services  
P.O. Box 648010  
Lee's Summit, MO 64064  
[uscis.foia@uscis.dhs.gov](mailto:uscis.foia@uscis.dhs.gov)

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

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.

Under the Trump administration, the processing times for naturalization applications have reached new highs, averaging 8.8 months in 2020.<sup>1</sup> With the outbreak of the novel coronavirus, the Citizenship and Immigration Services shut down public-facing activities, which exacerbated these circumstances, as it was impossible to schedule interviews and administer the Oath of Allegiance.<sup>2</sup> Even after reopening, a long backlog of applications will remain.<sup>3</sup> Given that new citizens were the fastest-growing group of

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<sup>1</sup> *Historical National Average Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year*, U.S. Citizenship and Immigration Services, <https://egov.uscis.gov/processing-times/historic-pt>.

<sup>2</sup> Justin Wise, *US Immigration Offices Temporarily Closing Over Coronavirus*, The Hill (Mar. 18, 2020, 7:47 AM), <https://thehill.com/homenews/administration/488174-us-immigration-offices-temporarily-closing-over-coronavirus>.

<sup>3</sup> Elvia Malagón, *Naturalization Backlog Could Keep Many Immigrants From Voting in November*, Chicago Sun Times (Jul. 17, 2020, 5:30 AM), <https://chicago.suntimes.com/politics/2020/7/17/21325510/immigration-naturalization-backlog-citizenship-voting-november-presidential-election-coronavirus>.



voters, by some estimates expected to comprise ten percent of the electorate in November, this will significantly impact the upcoming presidential election.<sup>4</sup>

In the midst of these ongoing problems, the Trump campaign featured a naturalization ceremony as part of the Republican National Convention.<sup>5</sup> Press reporting indicates that the new citizens were not notified that they would be featured in such a political event.<sup>6</sup> This is an unprecedented move that blurs the lines between official actions and political events.<sup>7</sup> Some experts are concerned that the Trump administration has committed a violation of the Hatch Act.<sup>8</sup>

American Oversight seeks records with the potential to shed light on whether and to what extent naturalization has been politicized by the Trump administration.

### **Requested Records**

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

All email communications (including email messages, complete email chains, email attachments, calendar invitations) sent by the government officials specified below containing any of the following key terms:

#### Department of Homeland Security

1. Acting Secretary Chad Wolf
2. Acting Deputy Secretary Ken Cuccinelli
3. Acting Chief of Staff John Gountanis
4. Acting General Counsel Chad Mizelle
5. Anyone serving in the role of White House Liaison, including in an acting capacity

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<sup>4</sup> Eileen Guo, *New U.S. Citizens Were One of the Fastest-Growing Voting Blocs: But Not This Year*, FiveThirtyEight, Aug. 31, 2020, <https://fivethirtyeight.com/features/new-u-s-citizens-were-one-of-the-fastest-growing-voting-blocs-but-not-this-year/>.

<sup>5</sup> Max Greenwood, *Republican Convention Airs Naturalization Ceremony at White House with Trump*, The Hill (Aug. 25, 2020, 10:31 PM), <https://thehill.com/homenews/campaign/513679-republican-convention-air-naturalization-ceremony-at-the-white-house>.

<sup>6</sup> Tarini Parti & Michael Bender, *Immigrants in Trump-Led Ceremony Didn't Know They Would Appear at RNC*, Wall St. J. (Aug. 26, 2020, 6:35 PM), <https://www.wsj.com/articles/immigrants-in-trump-led-ceremony-didnt-know-they-would-appear-at-rnc-11598481345>.

<sup>7</sup> John Haltiwanger, *Immigrants in Trump's RNC Naturalization Ceremony Weren't Warned It Would Be Part of the Convention and on TV*, Business Insider (Aug. 26, 2020, 9:31 PM), <https://www.businessinsider.com/immigrants-trump-naturalization-ceremony-werent-told-was-part-of-rnc-2020-8>.

<sup>8</sup> Citizens for Ethics (@CREWcrew), Twitter (Aug. 25, 2020, 10:36 PM), <https://twitter.com/CREWcrew/status/1298449272648749056?s=20>.

Citizenship and Immigration Services

1. Anyone serving as Director, including Ken Cuccinelli, and anyone in an acting capacity, or performing the duties of the Director
2. Deputy Director for Policy Joseph Edlow
3. Acting Deputy Director for Operations Larry DeNayer
4. Chief of Staff Aaron Calkins
5. Acting Chief Counsel George Fishman
6. Associate Director Tracy Renaud
7. Associate Director Daniel Renaud
8. Anyone serving in the role of White House Liaison, including in an acting capacity

American Oversight requests all email communications of the officials listed above that contain any of the key terms in Column A and any of the key terms in Column B:

Column A	Column B
<ol style="list-style-type: none"> <li>1. Backlog</li> <li>2. Delay*</li> <li>3. Oath</li> <li>4. Ceremon*</li> <li>5. “swearing-in”</li> <li>6. “swearing in”</li> <li>7. Interview*</li> <li>8. “drive-through”</li> <li>9. “drive through”</li> <li>10. “drive-thru”</li> <li>11. “drive thru”</li> <li>12. Remote</li> <li>13. Virtual</li> <li>14. Election</li> <li>15. “November 3”</li> <li>16. “Nov. 3”</li> <li>17. Partisan</li> <li>18. Campaign</li> <li>19. Red</li> <li>20. Blue</li> <li>21. Republican*</li> <li>22. GOP</li> <li>23. Democrat*</li> <li>24. Vot*</li> <li>25. “Stephen Miller”</li> <li>26. Stephen.Miller@who.eop.gov</li> <li>27. “the WH”</li> <li>28. “White House”</li> <li>29. POTUS</li> <li>30. “Maria Campbell Davis”</li> <li>31. “Abdel Wahab Alaussos”</li> </ol>	<ol style="list-style-type: none"> <li>1. Natz</li> <li>2. Naturaliz*</li> <li>3. Citizenship</li> <li>4. “N-400”</li> </ol>

32. RNC 33. Convention 34. "Hatch Act" 35. "Sudha Narayanan" 36. "Neimat Awadelseid" 37. "Salih Abdul Samad" 38. "Rima Gedeon" 39. "Robert Alcocer"	
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Please note that American Oversight is using the asterisk (\*) to designate the standard use of "wildcards" in the search for responsive records. For example, a search for "naturaliz\*" would return all of the following: naturalize, naturalized, naturalization, etc. If your agency is unable to search for wildcards, please advise so that we may specifically include the variations that we would like searched.

American Oversight has limited its request to sent messages to reduce the volume of potentially responsive records. American Oversight still requests complete email chains. So, for example, if a government official sent a response to an incoming message containing one of the key terms above, the email chain containing the initially received message and the response is responsive to this request.

Please provide all responsive records from March 15, 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>9</sup> The public has a significant interest in the potential politicization of the naturalization process. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including the extent to which the Trump administration is delaying naturalization of citizens in order to gain an advantage in the upcoming election and the extent to which the Trump administration used taxpayer money to fund political activities. 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.

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

This request is primarily and fundamentally for non-commercial purposes.<sup>10</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>11</sup>

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.<sup>12</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration's contacts with Ukraine and analyses of those contacts;<sup>13</sup> posting records and editorial content about the federal government's response to the Coronavirus pandemic;<sup>14</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>15</sup> 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

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<sup>10</sup> *See id.*

<sup>11</sup> American Oversight currently has approximately 15,640 page likes on Facebook and 105,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 22, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 22, 2020).

<sup>12</sup> *See generally News*, American Oversight, <https://www.americanoversight.org/blog>.

<sup>13</sup> *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

<sup>14</sup> *See generally The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; *see, e.g., CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

<sup>15</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>.

waivers;<sup>16</sup> and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.<sup>17</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.
- 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.
- 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>18</sup> It is not adequate to rely on policies and procedures that require officials to move such information to official systems

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<sup>16</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>17</sup> See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

<sup>18</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).

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>19</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>20</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.

## **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

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<sup>19</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>20</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>.

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 Hart Wood at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.873.1743. 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,

A handwritten signature in blue ink, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the left.

Austin R. Evers  
Executive Director  
American Oversight