



April 30, 2021

VIA EMAIL

Freedom of Information Act and Privacy Act Branch
245 Murray Lane SW, Building T-5
Washington, D.C. 20223
FOIA Officer/Public Liaison Kevin Tyrrell
FOIA@ussd.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, 6 C.F.R. Part 5, American Oversight makes the following request for records.

Public records indicate that former President Trump's personal businesses benefited significantly from federal and campaign spending while he held office.¹ Notably, reporting in October 2020 indicated that the federal government had spent at least \$2.5 million at Trump properties during Trump's tenure.²

American Oversight seeks records to shed light on the extent to which taxpayer dollars are personally benefiting the former President.

Requested Records

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

All records reflecting costs reimbursed or paid directly by your agency for visits to any property owned by the Trump Organization or former President Donald Trump.

¹ David Fahrenthold, et al., *When Trump Visits His Clubs, Government Agencies and Republicans Pay to Be Where He Is*, Wash. Post (June 20, 2019, 9:16 PM), https://www.washingtonpost.com/politics/when-trump-visits-his-clubs-government-agencies-and-republicans-pay-to-be-where-he-is/2019/06/20/a4c13c36-8ed0-11e9-adf3-f70f78c156e8_story.html.

² David A. Fahrenthold, *Trump's Company Billed the Government At Least \$2.5 Million. Here Are the Key Charges.*, Wash. Post, Oct. 27, 2020, https://www.washingtonpost.com/politics/key-charges-trump-properties/2020/10/27/bfa39b08-16cd-11eb-82db-60b15c874105_story.html.



Reimbursements and records reflecting costs paid include, but are not limited to, payments for lodging, meals, conference fees, incidental expenses, costs for transportation, costs of individual airfare, per diem payments, overtime payments, payments made via government-issued charge cards or travel cards, or other reimbursable expenses. This request encompasses costs incurred not only by government employees, but also by their spouses or any staff or security detail assigned to government employees traveling to any Trump Organization property.

The public website of the Trump Organization indicates that a reasonable search should include, at a minimum, the list of hotels and golf properties included in Appendix A of this request.

The search for responsive records should include all individuals and locations where records are likely to exist, including the immediate office of the agency head, the designated agency ethics official, and all agency offices involved in making travel arrangements or receiving, approving, paying, reimbursing, or auditing travel expenses.

Please provide all responsive records from January 20, 2021, through the date the search is conducted.

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."³ The public has a significant interest in whether public funds are spent at the businesses controlled by the former president and his family. Federal expenses at Trump owned businesses have already received wide-spread press attention.⁴ Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the federal government, including helping the public better understand how the agency is spending public resources. 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.

³ 5 U.S.C. § 552(a)(4)(A)(iii).

⁴ Fahrenthold, *supra* note 2.

This request is primarily and fundamentally for non-commercial purposes.⁵ 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.⁶

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.⁷ 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;⁸ posting records and editorial content about the federal government's response to the Coronavirus pandemic;⁹ 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;¹⁰ 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

⁵ See 5 U.S.C. § 552(a)(4)(A)(iii).

⁶ American Oversight currently has approximately 15,700 page likes on Facebook and 106,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Apr. 14, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Apr. 14, 2021).

⁷ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁸ *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

⁹ 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>.

¹⁰ 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;¹¹ and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹²

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.¹³ It is not adequate to rely on policies and procedures that require officials to move such information to official systems

¹¹ *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>.

¹² 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>.

¹³ 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.¹⁴

- 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,¹⁵ 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

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

¹⁵ 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 Daniel McGrath at foia@americanoversight.org or (202) 897-4213. 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,

/s/ Daniel McGrath
Daniel McGrath
on behalf of
American Oversight

Appendix A

The website of the Trump Organization indicates that a reasonable search should include, at a minimum, the following list of hotels and golf properties:

- i. Trump International Hotel, Washington D.C.
- ii. Trump National Doral, Miami, Florida
- iii. Trump International Hotel and Tower, Waikiki, Hawaii
- iv. Trump International Hotel and Tower, Chicago, Illinois
- v. Trump International Hotel and Tower, Las Vegas, Nevada
- vi. Trump International Hotel and Tower, New York, New York
- vii. Trump Turnberry, Turnberry, Scotland
- viii. Trump International Hotel and Tower, Vancouver, British Columbia
- ix. Trump International Golf Links and Hotel, Doonbeg, Ireland
- x. Macleod House and Lodge, Aberdeen Scotland
- xi. Albemarle Estate, Charlottesville, Virginia
- xii. Trump National Golf Club, Los Angeles, California
- xiii. Trump International Golf Club, Dubai, UAE
- xiv. Trump National Golf Club, Bedminster, New Jersey
- xv. Trump National Golf Club, Charlotte, North Carolina
- xvi. Trump National Golf Club, Colts Neck, New Jersey
- xvii. Trump National Golf Club, Hudson Valley, New York
- xviii. Trump National Golf Club, Jupiter, Florida
- xix. Trump International Golf Club, West Palm Beach, Florida
- xx. Trump National Golf Club Philadelphia, Pine Hill, New Jersey
- xxi. Trump International Golf Club, Washington, D.C.
- xxii. Trump National Golf Club, Westchester, New York
- xxiii. Trump World Golf Club, Dubai, UAE
- xxiv. Trump International Hotel, Lido City, Indonesia
- xxv. Trump International Golf Club and Resort, Bali Indonesia
- xxvi. Trump Tower, New York, New York
- xxvii. Trump Park Avenue, New York, New York
- xxviii. Trump World Tower, New York, New York
- xxix. Trump Parc, New York, New York
- xxx. Trump Parc East, New York, New York
- xxxi. 200 Riverside Boulevard, New York, New York
- xxxii. 220 Riverside Boulevard, New York, New York
- xxxiii. 240 Riverside Boulevard, New York, New York
- xxxiv. Trump Palace, New York, New York
- xxxv. Trump Plaza, New York, New York
- xxxvi. Trump Park Residences Yorktown, New York, New York
- xxxvii. Trump Tower City Center, New York, New York
- xxxviii. 610 Park Avenue, New York, New York
- xxxix. Trump Bay Street, New Jersey
- xl. Trump Plaza Residences, New Jersey
- xli. Trump Parc Stamford, Connecticut

- xlii. Trump Grande, Florida
- xlili. Trump Tower Sunny Isles, Florida
- xliv. Trump Hollywood, Florida
- xlv. Trump Towers, Pune, India
- xlvi. Trump Tower, Mumbai, India,
- xlvii. Trump Tower, Kolkata, India
- xlviii. Trump Tower, Delhi NCR, India
- xlix. Trump Tower at Century City Makati, Philippines
 - 1. Trump World Seoul, South Korea
 - li. Trump Towers Istanbul, Turkey
 - lii. Trump Residences Bali, Indonesia
 - liii. Trump Residences Lido, Indonesia
 - liv. Trump Tower Punta Del Este, Uruguay
 - lv. Seven Springs, Bedford New York
 - lvi. The Mar-a-Lago Club, Palm Beach, Florida
 - lvii. The Estates at Trump National, Los Angeles, California
 - lviii. Le Chateau des Palmiers, St. Martin