



July 23, 2021

**VIA CERTIFIED U.S. MAIL & FACSIMILE**

Office of the Governor  
500 E. Capitol Avenue  
Pierre, SD 57501  
Facsimile: (605) 773-4711

**Re: Formal Public Records Act Request**

Dear Public Records Officer:

Pursuant to the South Dakota Public Records Act, S.C.D.L. Chapter 1-27, American Oversight makes the following formal, written request for records under S.C.D.L. Section 1-27-37. American Oversight submitted an informal request for the same records on March 1, 2021 (*see* Exhibit 1), but the Office of the Governor did not respond to or acknowledge that request, necessitating this formal request.<sup>1</sup>

**Requested Records**

American Oversight requests that the Office of the Governor produce the following records within ten business days:

Records reflecting the expenses and costs incurred for Governor Kristi Noem's security detail related to the following trips undertaken by Governor Noem in 2020:

- a. Aug. 19: North Carolina for Dan Forest for Governor campaign
- b. Aug. 21: Montgomery County, Pennsylvania
- c. Sept. 4: Keynote speaker at Pottawattamie County Republican Party's annual Lincoln-Reagan Dinner in Iowa
- d. Sept. 8: Ohio for Women for Trump event
- e. Sept. 17: Workers for Trump event in Shelby, Michigan
- f. Sept. 20: Nebraska
- g. Sept. 30: Shorewood, Minnesota
- h. Oct. 1: Sparta, Wisconsin
- i. Oct. 8-9: AMPFest in Miami, Florida
- j. Oct. 10-11: Women for Trump event in Hermantown, Minnesota, and other Minnesota towns
- k. Oct. 12: Marshall, Minnesota

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<sup>1</sup> *See* Office of Hearing Examiners, Resolution Process for Public Records Disputes, <https://boa.sd.gov/ohe/default.aspx> ("If an informal request is denied or ignored in whole or in part, a written request may be made by the requestor to the public records officer of the public entity involved.").



- l. Oct. 13: Nebraska
- m. Oct. 15: New Hampshire
- n. Oct. 19: Dallas, Texas
- o. Oct. 19: Clay shoot and barbeque luncheon in Waukesha, Wisconsin
- p. Oct. 27: Trump rally in Omaha, Nebraska
- q. Oct. 28: New Hampshire and Maine
- r. Oct. 29–30: Mar-a-Lago Club, Palm Beach, Florida

To the extent your office has aggregated records sufficient to show all relevant expenses and costs, such as spreadsheets, American Oversight would accept production of such records as sufficient. To the extent your office does not have an aggregated record of security costs, American Oversight requests records reflecting those costs, such as receipts, invoices, charge card or credit card statements, and reimbursement requests.

Relevant expenses may include, but are not limited to, hotel or other lodging costs; costs for air travel, rental car, or other transportation companies; costs incurred for government transportation; the cost of meals or refreshments; and diem payments.

### **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.
- 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.
- 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 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 [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 873-1743.

Sincerely,

/s/ Hart W. Wood

Hart W. Wood  
on behalf of  
American Oversight

# **EXHIBIT 1**



March 1, 2020

**VIA FACSIMILE**

Office of the Governor  
500 E. Capitol Avenue  
Pierre, SD 57501  
Facsimile: (605) 773-4711

**Re: Informal Public Records Act Request**

Dear Records Custodian:

Pursuant to the South Dakota Public Records Act, S.C.D.L. Chapter 1-27, American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that the Office of the Governor produce the following records as soon as practicable:

Records reflecting the expenses and costs incurred for Governor Kristi Noem's security detail related to the following trips undertaken by Governor Noem in 2020:

- a. Aug. 19: North Carolina for Dan Forest for Governor campaign
- b. Aug. 21: Montgomery County, Pennsylvania
- c. Sept. 4: Keynote speaker at Pottawattamie County Republican Party's annual Lincoln-Reagan Dinner in Iowa
- d. Sept. 8: Ohio for Women for Trump event
- e. Sept. 17: Workers for Trump event in Shelby, Michigan
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- g. Sept. 30: Shorewood, Minnesota
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- k. Oct. 12: Marshall, Minnesota
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- p. Oct. 27: Trump rally in Omaha, Nebraska
- q. Oct. 28: New Hampshire and Maine
- r. Oct. 29-30: Mar-a-Lago Club, Palm Beach, Florida



To the extent your office has aggregated records sufficient to show all relevant expenses and costs, such as spreadsheets, American Oversight would accept production of such records as sufficient. To the extent your office does not have an aggregated record of security costs, American Oversight requests records reflecting those costs, such as receipts, invoices, charge card or credit card statements, and reimbursement requests.

Relevant expenses may include, but are not limited to, hotel or other lodging costs; costs for air travel, rental car, or other transportation companies; costs incurred for government transportation; the cost of meals or refreshments; and diem payments.

### **Fee Waiver Request**

In accordance with S.D.C.L. § 1-27-36, American Oversight requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Furthermore, 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.”<sup>1</sup> The public has a significant interest in the costs associated with Governor Noem’s numerous campaign trips during the 2020 election cycle.<sup>2</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including how much taxpayer money was expended on Governor Noem’s security per trip. American Oversight is committed to transparency and makes the responses agencies provide to open 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.

### **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.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in

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<sup>1</sup> S.D.C.L. § 1-27-36.

<sup>2</sup> E.g., Stephen Groves, *Bill to Disclose Noem’s Travel Security Costs Faces Backlash*, Star Tribune (Feb. 1, 2021, 5:30 PM), <https://www.startribune.com/bill-to-disclose-noems-travel-security-costs-faces-backlash/600017762/>.

files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.

- 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 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 Dan McGrath at [records@americanoversight.org](mailto:records@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/ Dan McGrath  
Dan McGrath  
on behalf of  
American Oversight