

July 17, 2023

VIA EMAIL

Public Record Request Coordinator, Office of the Governor
Attn: Deputy Counsel to the Governor
State Capitol, 600 Dr. Martin Luther King, Jr. Blvd., Ground Floor
Nashville, TN 37243
Gov.PRRC@tn.gov

Re: Public Records Act Request

Dear Public Records Coordinator:

Pursuant to the Tennessee's Public Records Act (TPRA), T.C.A. 10-7-503-06, I, Jessie Claudio, a resident of Tennessee, makes the following request for records.

Requested Records

I request that the Office of the Governor promptly produce copies of the following records, or provide a statutorily-permissible response, within seven business days:¹

1. All email communications (including emails, email attachments, complete email chains, and calendar invitations) of the specified agency officials listed below regarding the Governor's decision to terminate \$8.3 million in grant funding for HIV prevention from the Centers for Disease Control and Prevention (CDC) and instead allocate \$9 million in state funding.²

Specified Officials:

- a. Governor Bill Lee
- b. Chief of Staff Joseph Williams
- c. Policy Director Tony Niknejad
- d. Senior Advisor John DeBerry
- e. Chief Legal Counsel Erin Merrick

Please note that I do not seek, and that item 1 of this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications responding to or forwarding such emails are responsive to this request. In other words, for example, if an official received a mass-distribution news clip email regarding the termination of grant funding, that initial email would not be responsive to

¹ T.C.A. § 10-7-503(a)(2)(B).

² For further information, please see Benjamin Ryan, *How Tennessee Axed Millions in HIV Funds Amid Scrutiny from Far-Right Provocateurs*, NBC News (Feb. 2, 2023, 12:32 PM), <https://www.nbcnews.com/news/amp/rcna67769>.

this request. However, if the official forwarded that email to another individual or entity listed above with their own commentary, that subsequent message would be responsive to this request and the complete email chain should be produced.

Please provide all responsive records from September 1, 2022, through April 30, 2023.

2. All email communications (including emails, email attachments, complete email chains, and calendar invitations) sent by the officials specified in item 1 that contain the following specified key terms:

Specified Terms:

- i. "HIV prevention"
- ii. "HIV testing"
- iii. "HIV funding"
- iv. "HIV funds"
- v. EHE
- vi. PrEP
- vii. Vanderbilt
- viii. "Matt Walsh"
- ix. "Ben Shapiro"
- x. TTTF
- xi. "Tennessee Transgender Task Force"
- xii. "Shelby County"
- xiii. "Friends for Life"
- xiv. OUTMemphis
- xv. "Nashville CARES"
- xvi. "United Way of Greater Nashville"
- xvii. "Choice Health Network"
- xviii. "St. Jude Children's Research Hospital"
- xix. "Planned Parenthood"
- xx. PPTNM
- xxi. Holloman

I have limited item 2 of this request to sent messages to reduce the volume of potentially responsive records. I still request 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 are both responsive to this request.

Please provide all responsive records from September 1, 2022, through April 30, 2023.

3. All email communications (including emails, email attachments, complete email chains, and calendar invitations) between (a) the agency officials specified in item 1 and (b) the external individuals or entities listed below, including, but not limited to, those communicating from the domains provided:

- i. Alliance Defending Freedom (adfllegal.org)
- ii. Family Policy Alliance (familypolicyalliance.com)
- iii. American College of Pediatricians or ACPeds (acpeds.org)
- iv. Quentin Van Meter (kidendo@comcast.net)
- v. Child and Parental Rights Campaign (childparentrights.org)
- vi. American Family Association (afa.net)
- vii. Christian Medical & Dental Associations (cmda.org)
- viii. Concerned Women for America (concernedwomen.org or cwfa.org)
- ix. Courage International (couragerc.org)
- x. Lisa Littman, or anyone communicating on behalf of GenSpect (genspect.org)
- xi. Catholic Medical Association (cathmed.org)
- xii. Tony Perkins or anyone communicating on behalf of Family Research Council (frc.org or frcaction.org)
- xiii. Independent Women's Forum (iwf.org)
- xiv. Eagle Forum (eagleforum.org)
- xv. American Principles Project (americanprinciplesproject.org)
- xvi. Promise to America's Children (promisetoamericaschildren.org)
- xvii. Liberty Counsel (lc.org)
- xviii. American Association of Pro-Life Obstetricians and Gynecologists (aaplog.org)
- xix. Ethics and Public Policy Center (eppc.org)
- xx. Science for Evidence-Based Gender Medicine (segm.org)
- xxi. Partners for Ethical Care (partnersforethicalcare.com)
- xxii. Kelsey Coalition (kelseycoalition@gmail.com)
- xxiii. Parents of ROGD Kids (parentsofrogdkids.com)
- xxiv. Moms for Liberty (momsforliberty.org, libertysqr.com)
- xxv. Ben Shapiro
- xxvi. Matt Walsh
- xxvii. Family Action Council of Tennessee (factennessee.org)

Please note that I do not seek, and that item 3 of this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications responding to or forwarding such emails are responsive to this request. In other words, for example, if an official received a mass-distribution email from Alliance Defending Freedom, that initial email would not be responsive to this request. However, if the official forwarded that email to another individual or entity listed above with their own commentary, that subsequent message would be responsive to this request and the complete email chain should be produced.

Please provide all responsive records from September 1, 2022, through April 30, 2023.

4. Records sufficient to identify how the \$9 million in state HIV prevention funding will be allocated for the fiscal year starting June 1, 2023, including, but not limited to, recipients, funding amounts, and intended uses.

To the extent your office has aggregated records sufficient to show all relevant funding recipients, amounts, and uses, such as spreadsheets, I would accept production of such records as sufficient. To the extent your office does not have an aggregated record of this information, I request records reflecting funding recipients, amounts, and uses, such as grant or contract documents.

Request that Records be Produced Without Charge

In accordance with the discretion created by TRPA and your office's applicable policies,³ I respectfully request that the records be produced without charge.

The public has a significant interest in the Governor's decision to terminate \$8.3 million in grant funding for HIV prevention from the Centers for Disease Control and Prevention (CDC) and instead allocate \$9 million in state funding. Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the government, including what informed the Governor's decision.

Therefore, Tennesseans and the public at large will be served by your office producing records without charge.

If your office should instead choose to charge "reasonable costs," me with "an estimate of the reasonable costs to provide copies of the requested material" before incurring charges.⁴

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, I provide 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. For instance, if the request seeks "communications," please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- In conducting your search, please understand the terms "record," "document," and "information" in their broadest sense, to include any written, typed,

³ "A records custodian *may* require a requestor to pay the custodian's reasonable costs incurred in producing the requested material and to assess the reasonable costs in the manner established by the office of open records counsel pursuant to § 8-4-604."

T.C.A. § 10-7-503(a)(7)(B)(i) (emphasis added).

⁴ T.C.A. § 10-7-503(a)(7)(B)(ii).

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.

- My 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.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any segregable non-exempt portions of the requested records.⁵ 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, **please do not hesitate to contact me. Additionally, you may contact Ben Sparks**, a public records professional partnering with me to assist me in my request at **202-848-1320** or at Ben's office email: **records@americanoversight.org**.

I welcome an opportunity to discuss this request with you before you undertake your search or incur search or duplication costs. By working together at the outset, we 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 Ben's office at American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it

⁵ T.C.A. § 10-7-503(a)(5).

will accelerate release of responsive records, please also provide responsive material on a rolling basis.

We share a common belief in the value of transparency in government. **If you do not understand any part of this request, please contact my partner and I at the contact information listed above.**

Sincerely,
/s/ Jessie Claudio
Jessie Claudio