



**Homeland
Security**

Privacy Office, Mail Stop 0655

June 22, 2020

SENT VIA E-MAIL TO: foia@americanoversight.org

Austin R. Evers
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

Re: **2020-HQFO-00669**

Dear Mr. Evers:

This is the final response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated January 27, 2020, and received by this office on January 27, 2020. You are seeking the following:

1. All email communications (including complete email chains, email attachments, calendar invitations, and attachments thereto) between (a) Acting Secretary Chad Wolf and (b) any representatives of any of the entities listed below:
 - a. Hill+Knowlton Strategies (including anyone with an email address ending in @hkstrategies.com)
 - b. Analogic (including anyone with an email address ending in @analogic.com)
 - c. ABB (including anyone with an email address ending in @abb.com)
 - d. Cintas Corporation (including anyone with an email address ending in @cintas.com)
 - e. National Association of Software and Services Companies (including anyone with an email address ending in @nasscom.in)
 - f. Pershing Square Holdings (including anyone with an email address ending in @pershingssquareholdings.com)
 - g. Berkeley Research Group (including anyone with an email address ending in @thinkbrg.com);
2. Any conflicts or ethics waivers or authorizations for Mr. Wolf, including authorizations pursuant to 5 C.F.R. § 2635.502; and
3. Records reflecting any recusal determination made or issued for Mr. Wolf.

A search of the Department of Homeland Security's, Office of the Executive Secretariat (ESEC) and Office of the Chief Information Officer (OCIO) for documents responsive to your request produced a total of six (6) pages responsive to items 2 and 3 of your request. Unfortunately, we were unable to locate any records responsive to item 1. Of those six (6) pages, I have determined that three (3) pages of the records are releasable in their entirety and three (3) page are withheld in their entirety pursuant to Title 5 U.S.C. § 552 (b)(5), FOIA Exemptions 5.

Enclosed are five (5) pages with certain information withheld as described below:

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that [portions of] the responsive documents qualify for protection under the:

- **Attorney-Client Privilege**

The attorney-client privilege protects confidential communications between an attorney and his client relating to a legal matter for which the client has sought professional advice. It applies to facts divulged by a client to his attorney, and encompasses any opinions given by an attorney to his client based upon, and thus reflecting, those facts, as well as communications between attorneys that reflect client-supplied information. The attorney-client privilege is not limited to the context of litigation.

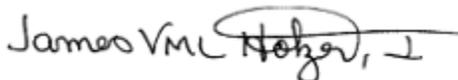
You have a right to appeal the above withholding and no records determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 90 days of the date of this letter, to: Privacy Office, Attn: FOIA Appeals, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue, SE, Mail Stop 0655, Washington, D.C. 20528-0655, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. Part 5 § 5.5(e)(2). Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS FOIA regulations are available at www.dhs.gov/foia.

Provisions of FOIA allow DHS to charge for processing fees, up to \$25, unless you seek a waiver of fees. In this instance, because the cost is below the \$25 minimum, there is no charge.

You may contact the DHS FOIA Public Liaison at 202-343-1743 for any further assistance and to discuss any aspect of your request. You may also contact OGIS at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you need to contact our office again about this matter, please refer to 2020-HQFO-00669. This office can be reached at FOIA@HQ.DHS.GOV or call 202-343-1743 or toll free 1-866-431-0486.

Sincerely,



James V.M.L. Holzer
Deputy Chief FOIA Officer

Enclosure(s): Responsive Documents, 3 pages

Secretary

U.S. Department of Homeland Security
Washington, DC 20528



Homeland Security

Authorization to Accept Service of Process

I, Chad F. Wolf, hereby authorize the General Counsel (or the Acting General Counsel) of the Department of Homeland Security to accept service of process on my behalf in lawsuits in which I am, or may be, named in my individual capacity for actions related to my service as the Acting Secretary of Homeland Security.

Under the direction of the General Counsel, I authorize attorneys in the Office of the General Counsel to request representation on my behalf from the Department of Justice (DOJ) when I am sued in my individual capacity. I acknowledge and accept the conditions of DOJ representation set forth in Form DOJ-399. If DOJ grants representation, the General Counsel (or the Acting General Counsel) may, on a case-by-case basis and in his or her sole discretion, authorize the DOJ attorney appointed to represent me to accept service of process.

This authorization is subject to my specific direction in any particular case and may be revoked at any time.

Date:

11/29/17

A handwritten signature in black ink, appearing to read "Chad F. Wolf", written over a horizontal line.

Chad F. Wolf
Acting Secretary of Homeland Security

Name of Case) District
) _____
) Court Number
) _____
DOJ Contact Attorney at Main Justice) DOJ Number
) _____
) Date Filed
) _____
) _____
Name and Address of Person To Be Represented) _____

This acknowledgment must be executed as part of your request for legal representation by the Department of Justice. The acknowledgment is designed to advise you of the extent and nature of legal representation that can be provided you by Department of Justice attorneys. Your signature at the end of the acknowledgment indicates your understating of and agreement to such representation.

The acknowledgment may be submitted either at the time you request representation or immediately after you have been notified that the Department has approved your pending request.

If you agree to accept Justice Department representation pursuant to the provisions set forth below, please execute the signature block at the end of the acknowledgment and return to the person furnishing you the acknowledgment. If the Department has advised that it will provide you with representation, the Department's representation will be considered to have taken effect on the date it was first authorized provided that you have signed and returned this acknowledgment. If this acknowledgment is being submitted as part of your request for representation, you will be advised of the Department's decision promptly after it has been made.

Your representation will be governed by the Attorney General's Representation Guidelines set forth in 28 C.F.R. §§ 50.15 and 50.16. A copy will be furnished upon request.

Representation is provided under the Guidelines upon a determination that it is in the interest of the United States to do so. Additionally, if you are being sued for conduct in your capacity as a current or former federal employee or official, representation is provided if it reasonably appears that such conduct was taken within the scope of your federal employment. The following representation provisions constitute the more significant features of the Representation Guidelines.

(1) Attorney-Client Communication Privilege

All written or oral communications between yourself and your assigned Justice Department lawyer will be protected by the traditional attorney-client privilege.

(2) Claims Against The United States

Your Justice Department attorney will not assert on your behalf any claim you may have against the United States in this case; nor will he or she assert any claim you might have against other federal employees.

(3) Counterclaims

As a general policy, your Department of Justice attorney can only undertake to defend you. He or she will not assert an affirmative claim on your behalf against the plaintiff or anyone else. If you strongly believe that such claim should be asserted, your normal recourse would be for you to hire a private attorney at your personal expense to press that claim. In the rare instance when an affirmative claim would further not only your defense, but also the interests of the United States, the Department will consider pressing the claim.

(4) Conflicts With The United States

If there is a legal argument which should be made in your defense, but which conflicts with a legal position taken by the United States, or any of its agencies, in this or another case, your Department of Justice attorney will not make the argument. You will be advised of this fact so that you may assess available options. Correspondingly, should you ever have questions in this regard, you should take the opportunity to discuss them with your assigned Justice Department attorney.

(5) Conflicts With Co-Defendants

If there is a material conflict of interest between you and one of your individually-sue co-defendants, whether factual or legal in nature, your Department of Justice attorney will advise you of this fact so that you may assess

available options. Correspondingly, should you ever become aware of such conflicts, you should immediately bring them to the attention of your Justice Department attorney. Normally, in such cases, it will not be possible for your Justice Department lawyer to continue representing you and other co-defendants having mutually conflicting interests.

(6) Defending Co-Defendants

If your Justice Department attorney is representing other defendants in your case in addition to yourself, including the United States or an agency, the Department attorney may elect to press available defenses that could result in the dismissal of a co-defendant before yourself.

(7) Appeals

If the judgment of the court is in your favor and the losing plaintiff appeals, representation will continue throughout the appellate stage in this case. In the event of an adverse judgment against you, the Solicitor General of the United States will determine whether an appeal by your Justice Department attorney would be in the interest of the United States. If not, you will be promptly advised in order to discuss available options.

(8) Retention of Private Counsel

In certain limited circumstances where a Department of Justice attorney can no longer represent you, such as those circumstances discussed in paragraphs (4), (5) and (7), the Department may elect in its discretion to provide you with a private attorney at government expense. You will be so advised if such circumstances arise.

(9) Paying Adverse Judgments

In the event of an adverse money judgment entered against you in this matter, or against you and other individually-sued employees, you may be personally responsible for the payment of the judgment; there is no general right to indemnification from the United States. However, if the United States is a proper defendant and there is a final judgment entered jointly against you and the United States, the United States would pay the judgement. By statute, the United States cannot be held liable for punitive damages (damages awarded to punish a defendant). Therefore, you would be personally responsible in the unlikely event punitive damages are assessed.

I have read the foregoing conditions of Justice Department representation and accept their terms.

(Signature)

(Date)