

# The State of Texas

Executive Division  
Capitol Building, 1E.8  
P.O. Box 12887  
Austin, Texas 78711-2887



John B. Scott  
Secretary of State

Phone: 512-463-5770  
Fax: 512-475-2761  
Dial 7-1-1 For Relay Services  
www.sos.texas.gov

November 30, 2021

Emma Lewis  
American Oversight

*Sent via Electronic Mail in care of Mariuxi Pintado to: [records@americanoversight.org](mailto:records@americanoversight.org)*

Re: Request for records, TX-SOS-21-1603, received: November 10, 2021  
(SOS PIR No. 21-1114)

Dear Ms. Lewis:

This letter responds to your request for information under the Public Information Act, Chapter 552 of the Texas Government Code (the “PIA”), which was received by the Office of the Texas Secretary of State (the “Office”) via email on November 10, 2021 (the “Request”).<sup>1</sup> In the Request, you indicate that you are seeking the following records:

- 1. All email communications (including emails, complete email chains, calendar invitations, and attachments thereto) sent by Secretary of State John Scott to any email address ending in .com, .net, .org, .mail, .edu, or .law.*
- 2. Records sufficient to identify the name and title or role sought of all individuals that submitted employment applications to the Texas Secretary of State, and the final disposition (i.e., hired or rejected) of each application.*

*For request items 1-2, please provide all responsive records from October 10, 2021, through the date the search is conducted.*

- 3. Records sufficient to identify all materials (including, but not limited to, cover letters, references, or curriculum vitae) submitted by John Scott to the Office of the Governor for the purpose of enabling Governor Abbott to evaluate Scott’s eligibility or competency to serve as Secretary of State.*
- 4. Records sufficient to identify the results of any background check concerning John Scott.*
- 5. Any personal financial statement, report, or disclosure completed by Secretary of State John Scott.*

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<sup>1</sup> The Office was closed on November 11, 2021 in observance of Veterans Day. On November 24, 2021, the Office operated on a skeleton-crew basis for the first half of the day and was closed for the second half of the day—and the Office remained closed on November 25 and November 26—in observance of Thanksgiving. Therefore, the 10th business day from the date that we received the Request is today, November 30, 2021.

6. *Any conflicts or ethics statement, report, or disclosure completed by Secretary of State John Scott.*

*For request items 3-6, please provide all responsive records from May 31, 2021, through the date the search is conducted.*

We are processing your Request in accordance with the terms of the PIA.<sup>2</sup> To that end, the Office maintains no documents responsive to Items 3-6 of your Request. As to Item 1 of the Request, we require additional time to review our records and produce responsive documents. We will provide you responsive documents—to the extent such information is not excepted from disclosure under state or federal law—by 5:00 p.m. on December 14, 2021. *See* Tex. Gov't Code § 552.221(d).

#### **CLARIFICATION REQUEST/NOTICE OF APPLICATION OF SEC. 552.222**

In order to fulfill Item 2 of your Request, we need clarification regarding the scope and type of records that you are seeking to obtain from the Secretary of State's office. Clarifying or narrowing the scope of your inquiry may help avoid the production of, and potential charges for, responsive information that you are not interested in receiving. It also may allow us to produce responsive documents to you more quickly. Additionally, we may be able to avoid having to withhold certain information under the Public Information Act and seek a ruling from the Office of the Attorney General regarding the release of such records.

To that end, please clarify or narrow Item 2 of the Request by responding to the following items:

1. Is your inquiry limited to employment applications pertaining to certain *job postings*, *divisions*, or *positions* within the Secretary of State's office? If so, please identify the relevant postings, divisions, and/or positions covered by Item 2 of your Request.
2. Are you seeking *all* records relating to the applicable employment applications (as clarified in response to the above question), or are you seeking only a *subset* of such records? If the latter, please clarify the types of documents encompassed by this portion of your Request—for example, are you seeking (1) standalone documents; (2) e-mails and other written communications; or (3) both categories of information?
  - a. If you would like to receive standalone documents, are you requesting (1) summary spreadsheets that our Office maintains (or which we can generate, potentially at no cost to you); (2) a broader category of materials such as individual applications and certain accompanying documents; or (3) both?
  - b. If Item 2 of the Request extends to e-mails or other written communications, are you seeking (1) communications that Secretary of State employees sent to or received from *external* sources (*i.e.*, individuals and entities outside the Secretary of State's office); (2) *internal* communications exchanged solely among Secretary of State employees; or (3) both?

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<sup>2</sup> The PIA applies only to information in existence as of the date that the governmental entity receives the request and thus does not require the entity to create new information in response to a request or comply with a continuing request to supply information on a periodic basis as such information is prepared in the future. *See* Tex. Gov't Code §§ 552.002, .021, .227, .351; *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex. 1995); *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681 (Tex. App.—Eastland 2000, pet. denied); Tex. Att'y Gen. Op. JM-48 at 2 (1983); Open Records Decision Nos. 476 at 1 (1987), 465 at 1 (1987), 452 at 2–3 (1986), 342 at 3 (1982).

Depending on your clarification, we may have to provide you a statement of estimated costs pursuant to Section 552.2615 of the Texas Government Code. Likewise, providing the requested information may require programming and/or manipulation of data and would be available only at a cost that covers such programming or manipulation. *See* Tex. Gov't Code § 552.231. In addition, some responsive information may be exempted from public disclosure under the PIA. However, we cannot make any of these determinations until we receive a clarified request from you.

Under Section 552.222 of the PIA, if you do not respond in writing to this request for clarification within sixty-one days of this communication, your request for information is deemed by Texas law to be withdrawn. The Secretary of State is a strong supporter of open government, and this Office is ready and willing to respond to any and all public information requests. However, we must require that requests provide sufficient detail regarding the records being sought so that we may fulfill our duties under the PIA.

If you have any questions or need additional information, or if you would like to submit a clarified request, please contact our office at (512) 463-5770 or at the e-mail address listed below.

Sincerely,

A handwritten signature in blue ink, appearing to read 'AB', is written over a faint, larger signature.

Adam Bitter  
General Counsel  
Office of the Texas Secretary of State  
generalcounsel@sos.texas.gov  
AB/jw