



OAG

Office of the Auditor General

201 N. Washington Square, Sixth Floor • Lansing, Michigan 48913 • Phone: (517) 334-8050 • <http://audgen.michigan.gov>

Doug A. Ringler, CPA, CIA
Auditor General

April 5, 2022

Sarah Colombo
American Oversight
1030 15th Street NW, Suite B255
Washington, DC 20005

Dear Ms. Colombo:

This written notice is issued in response to your request, which we received on March 31, 2022, for information under the Freedom of Information Act (FOIA), MCL 15.231 et seq.

In your request, a copy of which is attached hereto, you stated:

American Oversight requests that Office of the Auditor General respond to this request for the following records within five business days:

All external email communications (including emails, complete email chains, calendar invitations, and attachments thereto) received by Auditor General Doug Ringler; anyone acting on his behalf, or any member of OAG staff working on the BOE audit from any email address ending in .com, .net, .org, .mail, .law, or .edu, regarding OAG's Bureau of Elections audit or the 2020 election, excluding any such email communications from Michigan county, city, or township election clerks or staff.

Please note that American Oversight does not seek, and that this request also specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if Mr. Ringler received a mass-distribution news clip email referencing an election audit, that initial email would not be responsive to this request. However, if someone forwarded that news clip to Mr. Ringler, that message would be responsive to this request and should be produced.

Moreover, although American Oversight has limited its request to certain external emails received by OAG staff, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that Auditor General Ringler's response to an email from an external .com address regarding OAG's Bureau of Elections audit, as well as the initial received message are responsive to this request and should be produced.

Please provide all responsive records from November 3, 2020, through March 4, 2022.

Ms. Sarah Colombo
April 5, 2022
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Your request is denied under section 13(1)(d) of the FOIA, which exempts from disclosure records or information specifically described and exempted from disclosure by statute. MCL 13.101(10) states that all working papers and records of the Auditor General in connection with audits and examinations are exempt from public disclosure under the Freedom of Information Act.

As to the denial, the OAG is obligated to inform you that under section 10 of the FOIA, MCL 15.240, you may do the following:

- 1) Appeal this decision in writing to the Auditor General, at the address indicated at the top of this letter. The writing must specifically state the word "appeal" and must identify the reason or reasons you believe the denial should be reversed. The Auditor General or his designee must respond to your appeal within 10 business days of its receipt. Under unusual circumstances, the time for response to your appeal may be extended by 10 business days.
- 2) Commence a civil action in the Court of Claims within 180 days after the date of the final determination to deny the request. If you prevail in such an action, the court is to award reasonable attorney fees, costs, and disbursements. Further, if the court finds the denial to be arbitrary and capricious, you may receive punitive damages in the amount of \$1,000.00.

Sincerely,

Paul Green

Paul J. Green, C.P.A.
Freedom of Information Act Coordinator

Attachment



RECEIVED

MAR 31 2022

AUDITOR GENERAL

March 28, 2022

VIA U.S. CERTIFIED MAIL

Office of the Auditor General
Attn.: FOIA Coordinator
201 N. Washington Square, Sixth Floor
Lansing, MI 48913

Re: Freedom of Information Act Request

Dear FOIA Coordinator:

Pursuant to Michigan's Freedom of Information Act (FOIA), as codified at Mich. Comp. Laws Ann. § 15.231 et seq., American Oversight makes the following request for records.

In March 2021, the Office of the Auditor General (OAG) began planning a performance audit of the Michigan Bureau of Elections (BOE).¹ The audit examined efforts to maintain and control the Qualified Voter File (QVF), the BOE's training programs, and the BOE's post-election review procedures, and was completed in March of this year.² American Oversight seeks to understand whether and to what extent outside actors may have attempted to influence this performance audit.

Requested Records

American Oversight requests that Office of the Auditor General respond to this request for the following records within five business days:

All external email communications (including emails, complete email chains, calendar invitations, and attachments thereto) received by Auditor General Doug Ringler, anyone acting on his behalf, or any member of OAG staff working on the BOE audit from any email address ending in .com, .net, .org, .mail, .law, or .edu, regarding OAG's Bureau of Elections audit or the 2020 election, excluding any such email communications from Michigan county, city, or township election clerks or staff.

Please note that American Oversight does not seek, and that this request also specifically excludes, the initial mailing of news clips or other mass-distribution

¹ Ltr. from Auditor General Doug Ringler to Gov. Gretchen Whitmer et al., Apr. 1, 2021, <https://audgen.michigan.gov/wp-content/uploads/2021/04/March-2021-Report-Summary.pdf>.

² Office of the Auditor General, *Report Summary: Bureau of Elections - 231-0235-21*, <https://audgen.michigan.gov/wp-content/uploads/2022/03/rs231023521-4999.pdf> (last visited Mar. 22, 2022).



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emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if Mr. Ringler received a mass-distribution news clip email referencing an election audit, that initial email would not be responsive to this request. However, if someone forwarded that news clip to Mr. Ringler, that message would be responsive to this request and should be produced.

Moreover, although American Oversight has limited its request to certain external emails received by OAG staff, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means, for example, that Auditor General Ringler's response to an email from an external .com address regarding OAG's Bureau of Elections audit, as well as the initial received message are responsive to this request and should be produced.

Please provide all responsive records from November 3, 2020, through March 4, 2022.

Fee Waiver Request

In accordance with Mich. Comp. Laws Ann. § 15.234(2), American Oversight requests a waiver of fees associated with processing this request for records. A waiver of fees for this request "is in the public interest because searching for or furnishing copies of the public record[s] can be considered as primarily benefiting the general public."³

The public has a significant interest in understanding whether and to what extent outside actors may be attempting to influence the Bureau of Elections Audit. Records with the potential to shed light on this matter will help American Oversight and the general public understand what individuals or organizations may have been attempting to spread misinformation in the wake of the 2020 election.

American Oversight is committed to transparency and makes the responses agencies provide to FOIA requests publicly available, and the general public's understanding of the government's activities would be enhanced through American Oversight's analysis and publication of these records. 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.⁴

³ Mich. Comp. Laws Ann. § 15.234(2).

⁴ American Oversight currently has approximately 15,700 page likes on Facebook and 118,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Mar. 23, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Mar. 23, 2022).

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through numerous substantive analyses posted to its website.⁵ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the organization's investigations into misconduct and corruption in state governments;⁶ an ethics waiver received by a senior U.S. Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;⁷ posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the federal administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;⁸ posting records regarding potential self-dealing at the U.S. Department of Housing & Urban Development and related analysis;⁹ posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;¹⁰ and posting records and analysis regarding the U.S. Department of Justice's decision in response to demands from Congress to direct a U.S. Attorney to undertake a wide-ranging review and make recommendations regarding criminal investigations relating to the President's political opponents and allegations of misconduct by the Department of Justice itself and the Federal Bureau of Investigation.¹¹

Finally, this request is primarily and fundamentally for non-commercial purposes. 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.

Accordingly, American Oversight qualifies for a fee waiver.

⁵ *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁶ *State Investigations*, American Oversight, <https://www.americanoversight.org/states>.

⁷ *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>.

⁸ *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>.

⁹ *Documents Reveal Ben Carson Jr.'s Attempts to Use His Influence at HUD to Help His Business*, American Oversight, <https://www.americanoversight.org/documents-reveal-ben-carson-jr-s-attempts-to-use-his-influence-at-hud-to-help-his-business>.

¹⁰ *Investigating the Trump Administration's Efforts to Sell Nuclear Technology to Saudi Arabia*, American Oversight, <https://www.americanoversight.org/investigating-the-trump-administrations-efforts-to-sell-nuclear-technology-to-saudi-arabia>.

¹¹ *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

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:

- 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.
- 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.¹² 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 Sarah Colombo at

¹² Mich. Comp. Laws Ann. § 15.234(14).

records@americanoversight.org or (202) 869-5244. 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/ Sarah Colombo
Sarah Colombo
on behalf of
American Oversight