



July 1, 2024

**VIA ONLINE PORTAL**

U.S. Department of Health and Human Services  
Administration for Children and Families  
FOIA Office  
330 C Street SW, 4<sup>th</sup> Floor  
Washington, DC 20201  
Via Online Portal

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the implementing regulations of your agency, American Oversight makes the following request for records.

In February 2023, the *New York Times* published an investigation into migrant child labor, revealing widespread abuses and oversight failures across the country.<sup>1</sup> American Oversight seeks records with the potential to shed light on federal responses to this investigation and efforts to address the ongoing issue of migrant child labor violations.

**Requested Records**

American Oversight requests that the Administration for Children and Families produce the following records within twenty business days:

1. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by any of the Administration for Children and Families officials listed below and containing any of the key terms listed below.

Administration for Children and Families Officials:

- i. Jeff Hild, Principal Deputy Assistant Secretary
- ii. January Contreras, Assistant Secretary
- iii. Jennifer Cannistra, Deputy Assistant Secretary
- iv. Larry Handerhan, Deputy Assistant Secretary
- v. Ben Goldhaber, Deputy Assistant Secretary
- vi. Larry Sandigo, Chief of Staff

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<sup>1</sup> See, e.g., Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, NY Times, Feb. 28, 2023, <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.



- vii. Robin Dunn Marcos, Director, Office of Refugee Resettlement
- viii. Andrea Chapman, Principal Deputy Director, Office of Refugee Resettlement
- ix. Ken Tota, Deputy Director, Office of Refugee Resettlement
- x. Katherine Chon, Director, Office on Trafficking in Persons
- xi. Anyone serving as Chief of Staff for the Office of Refugee Resettlement
- xii. Anyone serving as the Unaccompanied Children Program Director for the Office of Refugee Resettlement

Key Terms:

- a. “migrant child labor”
- b. “migrant child work”
- c. “migrant children labor”
- d. “migrant children work”
- e. “migrant kid labor”
- f. “migrant kid work”
- g. “underage migrant work”
- h. “underage migrant labor”
- i. “underage immigrant work”
- j. “underage immigrant labor”
- k. “under-age migrant work”
- l. “under-age migrant labor”
- m. “under-age immigrant work”
- n. “under-age immigrant labor”
- o. “Migrant Children Work Brutal Jobs”
- p. Dreier
- q. unaccompanied-migrant-child-workers-exploitation

In an effort to accommodate your office and reduce the number of potentially responsive records to be processed and produced, American Oversight has limited part 1 of this request to emails sent by the specified individuals. To be clear, however, American Oversight still requests that complete email chains be produced, displaying both sent and received messages. This means that both an individual’s response to an email and the initial received message are responsive to this request and should be produced.

**For part 1 of this request, please provide all responsive records from February 25, 2023, through March 11, 2023.**

- 2. All dissent memoranda or complaints—both formal and informal—submitted to the relevant offices in your agency regarding migrant child labor practices or violations.

For part 2 of this request, American Oversight seeks copies of records submitted by employees, appointees, or contractors of the Administration for Children and Families. To be clear, American Oversight is not seeking the

release of, and does not object to withholding of, the names of any individuals who have submitted responsive documents.

3. Records sufficient to indicate (a) the number of calls received by the Office of Refugee Resettlement National Call Center (ORRNCC) regarding labor exploitation, (b) the number of calls returned by the ORRNCC regarding labor exploitation, (c) the number of calls referred to local law enforcement by the ORRNCC or Sponsors regarding labor exploitation, and (d) the outcome of calls received by the ORRNCC regarding labor exploitation.

Such records may include, but are not limited to, logs, reports, lists, spreadsheets, charts, summaries, and/or memoranda. To the extent that this information is aggregated and maintained in a database or spreadsheet, American Oversight requests a printout from the database.

4. All supporting documentation for and/or notes regarding calls received by the ORRNCC regarding labor exploitation.
5. A complete copy (including any attachments) of any formal or informal policy, guidance, directives, or protocol pertaining to calls received by the ORRNCC regarding labor exploitation.

**For parts 2-5 of this request, please provide all responsive records from February 25, 2023, through the date the search is conducted.**

6. Records sufficient to indicate (a) the number of children released to non-relative sponsors who sponsored three or more children, and (b) the number of sponsors who sponsored three or more non-relative children.

Such records may include, but are not limited to, logs, reports, lists, spreadsheets, charts, summaries, and/or memoranda. To the extent that this information is aggregated and maintained in a database or spreadsheet, American Oversight requests a printout from the database.

**For part 6 of this request, please provide all responsive records from January 1, 2023, through the date the search is conducted.**

7. Records sufficient to indicate (a) the names of businesses flagged in reports of child labor exploitation and/or trafficking, and (b) zip codes of noted concern where cases of potential or determined trafficking have been identified, that have been shared with the U.S. Department of Labor Wage and Hour Division as outlined in the inter-agency data sharing memorandum of agreement.<sup>2</sup>

Such records may include, but are not limited to, logs, reports, lists, spreadsheets, charts, summaries, and/or memoranda. To the extent that this

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<sup>2</sup> See, e.g., <https://www.dol.gov/sites/dolgov/files/WHD/MOU/MOU-hhs-whd.pdf>.

information is aggregated and maintained in a database or spreadsheet, American Oversight requests a printout from the database.

**For part 7 of this request, please provide all responsive records from March 25, 2023, through the date the search is conducted.**

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, American Oversight requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Moreover, 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 because it is likely to contribute significantly to public understanding of operations or activities of the government."<sup>3</sup> The public has a significant interest in migrant child labor abuses.<sup>4</sup> Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including efforts to address and mitigate migrant child labor violations. American Oversight is committed to transparency and makes the responses agencies provide to FOIA 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.

This request is primarily and fundamentally for non-commercial purposes.<sup>5</sup> 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. 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 X (formerly Twitter).<sup>6</sup>

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<sup>3</sup> 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>4</sup> See, e.g., Hannah Dreier, *Alone and Exploited, Migrant Children Work Brutal Jobs Across the U.S.*, NY Times, Feb. 28, 2023, <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

<sup>5</sup> See 5 U.S.C. § 552(a)(4)(A)(iii).

<sup>6</sup> American Oversight currently has approximately 16,000 followers on Facebook and 111,500 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited June 24, 2024); American Oversight (@weareoversight), X (formerly Twitter), <https://twitter.com/weareoversight> (last visited June 24, 2024).

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.<sup>7</sup> Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration's contacts with Ukraine and analyses of those contacts;<sup>8</sup> posting records and editorial content about the federal government's response to the Coronavirus pandemic;<sup>9</sup> posting records received as part of American Oversight's "Audit the Wall" project to gather and analyze information related to the administration's proposed construction of a barrier along the U.S.-Mexico border, and analyses of what those records reveal;<sup>10</sup> the posting of records related to an ethics waiver received by a senior Department of Justice attorney and an analysis of what those records demonstrated regarding the Department's process for issuing such waivers;<sup>11</sup> and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.<sup>12</sup>

Accordingly, American Oversight qualifies for a fee waiver.

### **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:

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<sup>7</sup> See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

<sup>8</sup> *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

<sup>9</sup> See generally *The Trump Administration's Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>.

<sup>10</sup> 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>.

<sup>11</sup> *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>.

<sup>12</sup> See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see, e.g., *New Information on Pompeo's 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, 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.
- 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.
- 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.<sup>13</sup> It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; American Oversight has a right to records contained in those files even if material has not yet been moved to official systems or if officials have, by intent or through negligence, failed to meet their obligations.<sup>14</sup>
- Please use all tools available to your agency to conduct a complete and efficient search for potentially responsive records. Agencies are subject to government-wide requirements to manage agency information electronically,<sup>15</sup> and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching emails and other electronic records in a manner that is reasonably likely to be more complete than just searching individual custodian files. For

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<sup>13</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145, 149–50 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–56 (D.C. Cir. 2016).

<sup>14</sup> See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

<sup>15</sup> Presidential Memorandum—Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

example, a custodian may have deleted a responsive email from his or her email program, but your agency's archiving tools may capture that email under Capstone. At the same time, custodian searches are still necessary; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

- 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. 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 Taylor Stoneman at [foia@americanoversight.org](mailto:foia@americanoversight.org) or (202) 848-1319. 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/ Taylor Stoneman  
Taylor Stoneman  
on behalf of  
American Oversight