



December 23, 2024

VIA ONLINE PORTAL

U.S. Immigration and Customs Enforcement
500 12th St. SW
Stop 5009
Washington, DC 20536
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, 6 C.F.R. Part 5, American Oversight makes the following request for records.

President-elect Trump has made immigration a centerpiece of his upcoming administration, with plans to deport millions of people annually, build additional detention facilities, reassign federal agents to immigration enforcement, and more.¹ American Oversight seeks records that shed light on the communications of future Acting Immigration and Customs Enforcement (ICE) Director Caleb Vitello and his preparations for the upcoming Trump administration's immigration plans.²

Requested Records

American Oversight requests that ICE produce the following records within twenty business days:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between Caleb Vitello, Assistant Director, Office of Firearms and Tactical Programs, and (b) any of the external entities or individuals listed below (including the listed email addresses and/or domains).

External Entities and Individuals:

¹See, e.g., Charlie Savage et al., *Sweeping Raids, Giant Camps and Mass Deportations: Inside Trump's 2025 Immigration Plans*, N.Y. Times, Nov. 11, 2023, <https://www.nytimes.com/2023/11/11/us/politics/trump-2025-immigration-agenda.html>.

²See, e.g., Hamed Aleaziz, *Trump Names 2 Officials to Carry Out Immigration Crackdown*, N.Y. Times, Dec. 5, 2024, <https://www.nytimes.com/2024/12/05/us/politics/rodney-scott-cbp-caleb-vitello-ice-trump.html>.



- i. America First Legal (or anyone communicating from an email address ending in aflegal.org)
- ii. America First Policy Institute (or anyone communicating from an email address ending in americafirstpolicy.com)
- iii. American Immigration Control Foundation (or anyone communicating from an email address ending in aicfoundation.com)
- iv. Border 911 (or anyone communicating from an email address ending in border911.com)
- v. Center for Immigration Studies (or anyone communicating from an email address ending in cis.org)
- vi. Center for Renewing America (or anyone communicating from an email address ending in americarenewing.com)
- vii. Citizens for Renewing America (or anyone communicating from an email address ending in citizensrenewingamerica.com)
- viii. Claremont Institute (or anyone communicating from an email address ending in claremont.org)
- ix. Conservative Partnership Institute (or anyone communicating from an email address ending in cpi.org or conservativepartnership.org)
- x. Constitutional Sheriff & Peace Officers Association (or anyone communicating from an email address ending in cspoa.org)
- xi. Donald J. Trump for President 2024 and/or Trump Save America Joint Fundraising Committee (or anyone communicating from an email address ending in donaldjtrump.com, trump.com, trumphotels.com, donaldtrump.com, 45office.com, or djtfp24.com)
- xii. Eric Trump³
- xiii. Federation for American Immigration Reform (or anyone communicating from an email address ending in fairus.org)
- xiv. Heritage Foundation (or anyone communicating from an email address ending in heritage.org or heritageaction.com)
- xv. Howard Lutnick⁴
- xvi. Immigration Reform Law Institute (or anyone communicating from an email address ending in irli.org)
- xvii. JD Vance⁵
- xviii. Kristi Noem⁶
- xix. Linda McMahon⁷

³ To clarify, this refers to President-elect Donald Trump's son Eric Trump, who serves as chair of the presidential transition team.

⁴ To clarify, this refers to Howard Lutnick, head of brokerage and investment bank Cantor Fitzgerald, President-elect Donald Trump's intended nominee for secretary of commerce, and presidential transition co-chair.

⁵ To clarify, this refers to Vice President-elect JD Vance.

⁶ To clarify, this refers to South Dakota Governor Kristi Noem, who is President-elect Donald Trump's intended nominee for secretary of homeland security.

⁷ To clarify, this refers to Linda McMahon, former administrator of the Small Business Administration, President-elect Donald Trump's intended nominee for secretary of education, and presidential transition co-chair.

- xx. Mark Krikorian⁸
- xxi. NumbersUSA (or anyone communicating from an email address ending in numbersusa.org)
- xxii. Peter Brimelow (pbrimelowvdare@protonmail.org)
- xxiii. President-elect Donald Trump
- xxiv. Presidential Transition Team (or anyone communicating from an email address ending in ptt.gov)
- xxv. Remembrance Project (or anyone communicating from an email address ending in theremembranceproject.org)
- xxvi. Republican National Committee (or anyone communicating from an email address ending in gop.com or rnc.org)
- xxvii. Richard Mack (cspoa2011@gmail.com, sheriffmack@hotmail.com, sheriffmack@protonmail.com)
- xxviii. Sam Bushman⁹
- xxix. South Dakota Governor's Office (or anyone communicating from an email address ending in state.sd.us)
- xxx. Stephen Miller¹⁰
- xxxi. Susan "Susie" Wiles¹¹
- xxxii. Thomas "Tom" Homan¹²
- xxxiii. Trump Vance 2025 Transition Inc (or anyone communicating from an email address ending in trumpvancetransition.com)
- xxxiv. VDARE (vdare@protonmail.com, or anyone communicating from an email address ending in vdare.com)
- xxxv. Voice of Citizens Together

Please note that American Oversight does not seek, and that 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 from America First Legal, that initial email would not be responsive to this request. However, if the official forwarded that email to another listed individual with their own commentary, that subsequent message would be responsive to this request and should be produced.

Please provide all responsive records from January 1, 2024, through December 6, 2024.

⁸ To clarify, this refers to Mark Krikorian, executive director of the Center for Immigration Studies.

⁹ To clarify, this refers to Sam Bushman, CEO of the Constitutional Sheriffs and Police Officers Association.

¹⁰ To clarify, this refers to Stephen Miller, President-elect Donald Trump's incoming deputy chief of staff for policy.

¹¹ To clarify, this refers to Susie Wiles, President-elect Donald Trump's incoming chief of staff.

¹² To clarify, this refers to Tom Homan, President-elect Donald Trump's incoming border czar, and former acting director of Immigration and Customs Enforcement.

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."¹³ The public has a significant interest in officials' communications regarding the incoming Trump administration's immigration plans.¹⁴ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including how officials are preparing for the presidential transition. 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.¹⁵ 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).¹⁶

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.¹⁷ Examples reflecting this commitment to the public disclosure of

¹³ 5 U.S.C. § 552(a)(4)(A)(iii).

¹⁴ See, e.g., Alexandra Hutzler, *Trump Confirms Plan to Declare National Emergency, Use Military for Mass Deportations*, ABC News (Nov. 18, 2024, 2:48 PM), <https://abcnews.go.com/Politics/trump-confirms-plan-declare-national-emergency-military-mass/story?id=115963448>.

¹⁵ See 5 U.S.C. § 552(a)(4)(A)(iii).

¹⁶ American Oversight currently has approximately 16,000 followers on Facebook and 98,200 followers on X (formerly Twitter). American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Dec. 19, 2024); American Oversight (@weareoversight), X (formerly Twitter), <https://x.com/weareoversight> (last visited Dec. 19, 2024).

¹⁷ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

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;¹⁸ posting records and editorial content about the federal government's response to the Coronavirus pandemic;¹⁹ 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;²⁰ 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;²¹ and posting records and analysis of federal officials' use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.²²

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:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.

¹⁸ *Trump Administration's Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

¹⁹ 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>.

²⁰ 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>.

²¹ *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>.

²² 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>.

- 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.²³ 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.²⁴
- 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,²⁵ 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 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.

²³ 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).

²⁴ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

²⁵ 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>.

- 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 Loree Stark at foia@americanoversight.org or 304.903.6114. 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/ Loree Stark
Loree Stark
on behalf of
American Oversight