AMERICAN OVERSIGHT

May 8, 2025

VIA ONLINE PORTAL

Office of the Washington Governor
Public Disclosure Officer
P.O. Box 40002
Olympia, WA 98504
Via Online Portal

Re: Public Records Act Request

Dear Public Records Officer:

Pursuant to the Public Records Act, RCW, Ch. 42.56, American Oversight makes the following request for records.

Requested Records

American Oversight requests that your office produce the following records within five business days:

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

   Office of the Washington Governor Officials:
   i. Bob Ferguson, Governor
   ii. Shane Esquibel, Interim Chief of Staff
   iii. Franklin Plaistowe, Deputy Chief Operations Officer

   Key Terms:
   a. sanctuary
   b. "Protecting American Communities"
   c. "criminal alien"
   d. "criminal aliens"

   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.

2. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between any of the officials listed above in part 1, and (b) any of the external entities listed below (including the listed domains).

   External Entities:
   a. Office of Management and Budget (omb.eop.gov)
   b. U.S. Customs and Border Protection (cbp.dhs.gov)
   c. U.S. Department of Homeland Security (hq.dhs.gov)
   d. U.S. Department of Justice (usdoj.gov)
   e. U.S. Immigration and Customs Enforcement (ice.dhs.gov)
   f. White House Office (who.eop.gov)

   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 the Office of Management and Budget, 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.

For parts 1-2 of this request, please provide all responsive records from April 21, 2025, through the date the search is conducted.

3. All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) sent by any of the officials listed above in part 1 and containing any of the key terms listed below.

   Key Terms:
   a. "federal grant"
   b. "federal grants"
   c. "federal fund"
   d. "federal funds"
   e. "federal funding"
   f. "executive order"

   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 3 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 3 of this request, please provide all responsive records from April 28, 2025, through May 9, 2025.

Fee Waiver Request

In accordance with RCW § 42.56.120(4), American Oversight requests a waiver of fees associated with providing copies of the requested records to the extent permitted by your agency's rules and regulations.

American Oversight is a 501(c)(3) nonprofit with the mission to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses information gathered through research and public records requests, 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).[1]

The public has a significant interest in the executive order "Protecting American Communities from Criminal Aliens," which targets sanctuary jurisdictions.[2] Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the Washington state government, including how state and local officials plan to respond to the executive order.

Accordingly, American Oversight respectfully requests a fee waiver.

To the extent your agency anticipates charging any fees in connection with this request for records, American Oversight requests that you inform us in advance of doing so.

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.

[1] American Oversight currently has approximately 16,000 followers on Facebook and 94,900 followers on X (formerly Twitter). American Oversight, Facebook, https://www.facebook.com/weareoversight/ (last visited May 5, 2025); American Oversight (@weareoversight), X (formerly Twitter), https://x.com/weareoversight (last visited May 5, 2025).

[2] *See, e.g.*, Anna Betts, *Trump Signs Executive Order Requiring List of Sanctuary Cities and States*, Guardian (Apr. 28, 2025, 7:00 PM), https://www.theguardian.com/us-news/2025/apr/28/trump-immigration-executive-orders.

- 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 Public Records Act.[3]

- 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.[4] If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release. If a request is denied in whole or in part, please state specifically which statute renders the records or portions exempt from disclosure and provide a brief explanation of how the exemption applies to the record or portion withheld.[5]

- 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

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[3] *See, e.g.*, *O'Neill v. City of Shoreline*, 170 Wn.2d 138, ¶ 11 (2010) (holding agency records on city officials' personal computers subject to PRA, and noting "If government employees could circumvent the PRA by using their home computers for government business, the PRA could be drastically undermined."); *Nissen v. Pierce County*, 183 Wn.2d 581, 585 (2015) (holding agency records on personal cell phones subject to PRA); *see also* Washington State Att'y Gen. Bob Ferguson, *Washington State Sunshine Laws 2016, An Open Government Resource Manual* at 7 (Oct. 31, 2016), https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/About_the_Office/Open_Government/Open_Government_Internet_Manual/Open%20Government%20Resource%20Manual%202016%20-%20Oct.%2031%202016%20%282%29.pdf.

[4] RCW § 42.56.210(1).

[5] RCW § 42.56.210(3).

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 Chloe Dennison at records@americanoversight.org or 202.516.7117. 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/ Chloe Dennison
Chloe Dennison
on behalf of
American Oversight