



June 16, 2017

VIA ELECTRONIC MAIL

Nicole Barksdale-Perry
Acting Senior Director of FOIA Operations
The Privacy Office
U.S. Department of Homeland Security
245 Murray Lane SW
STOP-0655
Washington, DC 20528-0655
foia@hq.dhs.gov

Sabrina Burroughs
FOIA Officer
U. S. Customs & Border Protection
1300 Pennsylvania Avenue NW, Room 3.3D
Washington, DC 20229
Online Request at FOIAonline

Re: Expedited Freedom of Information Act Request

Dear Ms. Barksdale-Perry and Ms. Burroughs:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.* and your agency's implementing regulations, 6 C.F.R. Part 5 and 19 C.F.R. § 103.2, American Oversight makes the following request for records.

Building a "wall" along the entire U.S.-Mexico border was a central promise of President Donald Trump's 2016 campaign.¹ On February 8, 2017, Mr. Trump told law enforcement officials that

¹ Donald J. Trump (@realdonaldtrump), TWITTER (May 20, 2015, 4:22 PM), <https://twitter.com/realDonaldTrump/status/601120861882621955>; Donald J. Trump (@realdonaldtrump), TWITTER (Apr. 1, 2016, 5:49 PM), <https://twitter.com/realDonaldTrump/status/716019755682045952>; see also Amanda Holpuch, *Trump Re-ups Controversial Muslim Ban and Mexico Wall in First Campaign Ad*, THE GUARDIAN, Jan. 4, 2016, <https://www.theguardian.com/us-news/2016/jan/04/donald-trump-great-again-first-campaign-ad-isis-mexico-wall-muslim-ban>; Seema Mehta & Noah Bierman, *Campaign 2016 Updates: Donald Trump Continues Vow to Build Wall and Have Mexico Pay for It*, L.A. TIMES, Aug. 31, 2016, <http://www.latimes.com/nation/politics/trailguide/la-na-trailguide-updates-08312016-htmlstory.html>; Donald J. Trump (@realdonaldtrump), TWITTER (Oct. 8, 2014, 5:26 PM), <https://twitter.com/realDonaldTrump/status/519962130859429888>; Bob Woodward &



design of the wall was already underway.² In prepared remarks for his joint address to Congress on February 28, Mr. Trump indicated that a schedule had been established for starting and completing the wall, and stated, “We will soon begin the construction of a great wall along our southern border. It will be started ahead of schedule and, when finished, it will be a very effective weapon against drugs and crime.”³ Despite repeatedly pledging that he would make Mexico pay for the wall, it appears American taxpayers will be footing the bill for the construction.⁴ Moreover, Mr. Trump has evidenced a lack of familiarity with U.S. procurement laws as well as a propensity for inside deals with his friends in the construction industry.⁵ Mr. Trump has insisted that he will be personally involved in the wall’s “design and negotiations” to ensure it comes in under budget.⁶

Public reporting has suggested that some unlikely players may be taking seats at the border wall table. In particular, the public calendar for the Secretary of the Interior, Ryan Zinke, indicates that he met with Charles Johnson and Palmer Luckey on April 12, 2017, to discuss “Border Wall building plans.”⁷ Charles Johnson is the CEO of WeSearchr.com and the founder and editor-in-chief of Gotnews.com.⁸ He also previously worked for White House advisor Steve Bannon at

Robert Costa, *Trump Reveals How He Would Force Mexico to Pay for Border Wall*, WASH. POST, Apr. 5, 2016, https://www.washingtonpost.com/politics/trump-would-look-to-block-money-transfers-to-force-mexico-to-fund-border-wall/2016/04/05/c0196314-fa7c-11e5-80e4-c381214de1a3_story.html?utm_term=.7d6d9e7aac34.

² Julia Edwards Ainsley, *Exclusive - Trump Border ‘Wall’ to Cost \$21.6 Billion, Take 3.5 Years to Build: Internal Report*, REUTERS.COM (Feb. 9, 2017, 10:05 PM), <http://www.reuters.com/article/us-usa-trump-immigration-wall-exclusive-idUSKBN15O2ZN>.

³ *Donald Trump’s Congress Speech*, CNN.COM (Mar. 1, 2017, 12:54 AM), <http://www.cnn.com/2017/02/28/politics/donald-trump-speech-transcript-full-text/>.

⁴ Stuart Anderson, *Now Americans, Not Mexico, Would Pay for the Wall?*, FORBES.COM (Jan. 26, 2017, 9:04 PM), <https://www.forbes.com/sites/stuartanderson/2017/01/26/now-americans-not-mexico-would-pay-for-the-wall/#177fa9126c48>; Scott Horsley, *Trump’s Suggested Import Tax Would Mean Americans Pay for That Wall*, NPR, Jan. 26, 2017, <http://www.npr.org/2017/01/26/511861462/trumps-suggested-import-tax-would-mean-americans-pay-for-that-wall>.

⁵ Blake Schmidt & Jonathan Levin, *Miami Billionaire Perez Rejects His Friend Trump’s Wall Overture*, BLOOMBERG, Jan. 31, 2017, <https://www.bloomberg.com/news/articles/2017-01-31/miami-billionaire-perez-rejects-his-friend-trump-s-wall-overture> (“[Jorge] Perez, a billionaire who has built Trump-branded towers in South Florida, said the president e-mailed him after the inauguration with plans for the wall and asked if he’d be interested in working on it.”).

⁶ Donald J. Trump (@realdonaldtrump), TWITTER (Feb. 11, 2017, 9:18 AM), <https://twitter.com/realdonaldtrump/status/830405706255912960>; Donald J. Trump (@realdonaldtrump), TWITTER (Feb. 11, 2017, 9:24 AM), <https://twitter.com/realdonaldtrump/status/830407172747988992>.

⁷ See Zinke Public Calendar, Apr. 12, 2017, <https://www.doi.gov/sites/doi.gov/files/uploads/17-00535ca.pdf>.

⁸ See *Contact*, WESEARCHR, <https://www.wesearchr.com/contact> (last visited June 13, 2017); *About Chuck and GotNews.com*, GOT NEWS, <http://gotnews.com/about/> (last visited June 13, 2017).

Breitbart News.⁹ Palmer Luckey is the founder of Oculus VR, a virtual reality company that was acquired by Facebook in March 2014.¹⁰ During the 2016 presidential election, Mr. Luckey famously donated money to Nimble America, a pro-Trump group that advertised against Hillary Clinton,¹¹ and then donated a significant amount of money to Mr. Trump's inaugural committee.¹² Mr. Luckey has reportedly started a new company to develop virtual surveillance technology that could be used to enhance border security efforts.¹³

Given that Messrs. Johnson and Luckey met with Mr. Zinke about the border wall, it seems likely that one or both of them may also have met with high-ranking officials in the Department of Homeland Security (DHS) or its component the U.S. Customs and Border Protection (CBP), the agencies with primary responsibility for the construction of the wall itself.

With concerns about the propriety of potential political interference at the fore, it is critical that the public have full transparency into the procurement procedures at DHS and CBP. Given that building the wall was the hallmark issue of Mr. Trump's campaign and its fulfillment is estimated to cost anywhere from \$8 billion to \$22 billion to \$70 billion,¹⁴ Americans have a significant interest in keeping abreast of developments as this project progresses.

⁹ Charles C. Johnson, BREITBART NEWS, <http://www.breitbart.com/author/charles-johnson/> (last visited June 13, 2017).

¹⁰ See Brian Heater & Lucas Matney, *Embattled Oculus Co-Founder Palmer Luckey Leaves Facebook*, TECHCRUNCH, Mar. 30, 2017, <https://techcrunch.com/2017/03/30/palmer-luckey-facebook/>.

¹¹ See Ben Gilbert, *Facebook's \$2 Billion Bet on the Future Is In Jeopardy Because of Palmer Luckey*, YAHOO! FINANCE, Sept. 29, 2016, <https://uk.finance.yahoo.com/news/heck-going-palmer-luckey-171958553.html>; Alex Hern, *Oculus Rift Founder Palmer Luckey Spends Fortune Backing Pro-Trump 'Shitposts'*, THE GUARDIAN, Sept. 23, 2016, <https://www.theguardian.com/technology/2016/sep/23/oculus-rift-vr-palmer-luckey-trump-shitposts>.

¹² David Morris, *Palmer Luckey Returns to Public Eye as Report Unearths Further Trump Contributions*, FORTUNE, Apr. 23, 2017, <http://fortune.com/2017/04/23/palmer-luckey-trump-contributions/>.

¹³ See Nick Wingfield, *Oculus Founder Plots a Comeback with a Virtual Border Wall*, N.Y. TIMES, June 4, 2017, <https://www.nytimes.com/2017/06/04/business/oculus-palmer-luckey-new-start-up.html>; Tim Collins, *Could Illegal Immigrants Be Kept Away from America's Borders by Virtual Walls? US Entrepreneur Is Working with Donald Trump To Create a Defence that Uses Lasers and Sensors*, DAILY MAIL (June 5, 2017, 5:34 PM), <http://www.dailymail.co.uk/sciencetech/article-4572884/Palmer-Luckey-developing-virtual-border-wall-technology.html>.

¹⁴ Jeremy Diamond, *Trump: Border Wall Will Cost \$8 Billion*, CNN (Feb. 9, 2017, 4:27 PM), <http://www.cnn.com/2016/02/09/politics/donald-trump-border-wall-cost-8-billion/>; Ainsley, *supra* note 2; Ron Nixon, *Border Wall Cost 3 Times Estimates, Senate Democrats' Report Says*, N.Y. TIMES, Apr. 18, 2017, <https://www.nytimes.com/2017/04/18/us/politics/senate-democrats-border-wall-cost-trump.html>.

Requested Records

American Oversight requests that DHS and its component CBP (collectively, “DHS”) produce the following within twenty business days:

1. All communications between any political appointees (including officials in Senate-confirmed positions) or career SES staff in the DHS Office of the Secretary or the DHS Management Directorate and Charles Johnson or Palmer Luckey or their companies.
2. All communications between any political appointees (including officials in Senate-confirmed positions) or career SES staff in the CBP Office of the Commissioner and Charles Johnson or Palmer Luckey or their companies.
3. All calendar entries for any political appointees (including officials in Senate-confirmed positions) or career SES staff (or anyone maintaining calendars on behalf of a political appointee or career SES staff) in the DHS Office of the Secretary or the DHS Management Directorate reflecting meetings with Charles Johnson or Palmer Luckey or their companies.
4. All calendar entries for any political appointees (including officials in Senate-confirmed positions) or career SES staff (or anyone maintaining calendars on behalf of a political appointee or career SES staff) in the CBP Office of the Commissioner reflecting meetings with Charles Johnson or Palmer Luckey or their companies.

For calendar entries created in Outlook or similar programs, the documents should be produced in “memo” form to include all invitees, any notes, and all attachments. Please do not limit your search to Outlook calendars—we request the production of any calendar—paper or electronic, whether on government-issued or personal devices—used to track or coordinate how these individuals allocate their time on agency business.

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

In addition to the records requested above, American Oversight also requests records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched and any tracking sheets used to track the processing of this request. If DHS uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

American Oversight seeks all 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 includes any attachments to these records. **No category of material should be omitted from search, collection, and production.**

Please search all records regarding agency business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Records of official business conducted using unofficial systems or stored outside of official files is subject to the Federal Records Act and FOIA.¹⁵ **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, through negligence or willfulness, failed to meet their obligations.**¹⁶

In addition, please note that in conducting a “reasonable search” as required by law, you must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered DHS’s prior FOIA practices unreasonable. **In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches.**¹⁷ Furthermore, agencies that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians’ files. For example, a custodian may have deleted a responsive email from his or her email program, but DHS’s archiving tools would capture that email under Capstone. Accordingly, American Oversight insists that DHS use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. American Oversight is available to work with you to craft appropriate search terms. **However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

¹⁵ 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).

¹⁶ See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016) (“The Government argues that because the agency had a policy requiring [the official] to forward all of his emails from his [personal] account to his business email, the [personal] account only contains duplicate agency records at best. Therefore, the Government claims that any hypothetical deletion of the [personal account] emails would still leave a copy of those records intact in [the official’s] work email. However, policies are rarely followed to perfection by anyone. At this stage of the case, the Court cannot assume that each and every work related email in the [personal] account was duplicated in [the official’s] work email account.” (citations omitted)).

¹⁷ 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>.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”¹⁸ If it is your position that any portion of the requested records is exempt from disclosure, American Oversight requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”¹⁹ Moreover, the *Vaughn* index “must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information.”²⁰ Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”²¹

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 it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.²² Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

You should institute a preservation hold on information responsive to this request. American Oversight intends to pursue all legal avenues to enforce its right of access under FOIA, including litigation if necessary. Accordingly, DHS is on notice that litigation is reasonably foreseeable.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, 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 DHS can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format by email or in PDF or TIF 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 rolling basis.

¹⁸ FOIA Improvement Act of 2016 § 2 (Pub. L. No. 114-185).

¹⁹ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

²⁰ *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis in original).

²¹ *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

²² *Mead Data Central*, 566 F.2d at 261.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 6 C.F.R. § 5.11(k), 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.²³ Moreover, the request is primarily and fundamentally for non-commercial purposes.²⁴

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 the operations or activities of the government.”²⁵ The requested records will help American Oversight and the general public understand what individuals, groups, and interests are being represented as the government undertakes this mammoth construction project. An infrastructure project of this size is a clear government activity. As noted above, Mr. Trump has previously evidenced a propensity for inside deals with his friends in the construction industry.²⁶ He has also insisted that he will be personally involved in the wall’s “design and negotiations” to ensure it comes in under budget.²⁷ Also, Messrs. Johnson and Luckey have ties to the Trump campaign and/or Mr. Trump’s current political advisors.²⁸ These connections make it all the more important for the public to understand whether and to what extent those individuals are involved in the planning for—or execution of—the building of a wall along the U.S.-Mexico border. The requested records are necessary to help the public evaluate whether this massive undertaking is free from inappropriate influence.

This request is primarily and fundamentally for non-commercial purposes.²⁹ 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 will use the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight will also make materials it gathers available on our public

²³ 6 C.F.R. § 5.11(k)(1)(i).

²⁴ 6 C.F.R. § 5.11(k)(1)(ii).

²⁵ 6 C.F.R. § 5.11(k)(1)(i), (2)(i)-(iv).

²⁶ Blake Schmidt & Jonathan Levin, *Miami Billionaire Perez Rejects His Friend Trump’s Wall Overture*, BLOOMBERG, Jan. 31, 2017, <https://www.bloomberg.com/news/articles/2017-01-31/miami-billionaire-perez-rejects-his-friend-trump-s-wall-overture> (“[Jorge] Perez, a billionaire who has built Trump-branded towers in South Florida, said the president e-mailed him after the inauguration with plans for the wall and asked if he’d be interested in working on it.”).

²⁷ Donald J. Trump (@realdonaldtrump), TWITTER (Feb. 11, 2017, 9:18 AM), <https://twitter.com/realdonaldtrump/status/830405706255912960>; Donald J. Trump (@realdonaldtrump), TWITTER (Feb. 11, 2017, 9:24 AM), <https://twitter.com/realdonaldtrump/status/830407172747988992>.

²⁸ See *supra* notes 9, 11-12.

²⁹ 6 C.F.R. § 5.11(k)(1)(ii), (3)(i)-(ii).

website and promote their availability on social media platforms, such as Facebook and Twitter.³⁰ This particular FOIA request is part of a public project conducted by American Oversight called “Audit the Wall,” where the organization is gathering and analyzing information and commenting on public releases of information related to the administration’s proposed construction of a barrier along the U.S.-Mexico border.³¹

Accordingly, American Oversight qualifies for a fee waiver.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 6 C.F.R. § 5.5(e)(1)(iv), American Oversight requests that DHS expedite the processing of this request.

I certify to be true and correct to the best of my knowledge and belief that there is widespread and exceptional media interest and there exist possible questions about the government’s integrity, which affect public confidence. News stories about the wall are published regularly.³² Recent

³⁰ American Oversight currently has over 10,950 page likes on Facebook, and over 32,650 on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited June 13, 2017); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited June 13, 2017).

³¹ *Audit the Wall*, AMERICAN OVERSIGHT, www.auditthewall.org.

³² See, e.g., Sofia Lotto Persio, *Border Wall Construction Will Cost \$1.6 Billion for Work to Start Next Year*, NEWSWEEK (June 14, 2017, 1:26 PM), <http://www.newsweek.com/mexico-border-wall-construction-needs-start-less-year-625656>; Tal Kopan, *Trump Suggests Border Wall with Solar Panels*, CNN POLITICS (June 6, 2017, 7:00 PM), <http://www.cnn.com/2017/06/06/politics/trump-solar-border-wall/index.html>; Angela Kocherga, *Along Texas-Mexico Border, Trump’s Wall Faces Opposition*, GARDEN CITY TELEGRAM, May 21, 2017, http://www.gctelegram.com/news/nation_world/along-texas-mexico-border-trump-s-wall-faces-opposition/article_428b57d4-a509-5d12-ae28-0f8e85a281ef.html; Alan Rappeport, *White House Reveals Details on Military and Wall Ahead of Budget Proposal*, N.Y. TIMES, May 18, 2017, https://www.nytimes.com/2017/05/18/us/politics/budget-trump-white-house.html?_r=0; Kavitha Surana, *Final Selection Process for Border Wall Kicks Off*, MYAJC, May 18, 2017, <http://www.myajc.com/news/gen-politics/final-selection-process-for-border-wall-kicks-off/a4PvDnD5gb94P7acTJiJiP/>; Ron Nixon, *Trump’s Wall Faces a Barrier in Texas: Landowner Lawsuits*, N.Y. TIMES, May 7, 2017, <https://www.nytimes.com/2017/05/07/us/politics/trump-wall-faces-barrier-in-texas.html>; Jim Acosta & Theodore Schleifer, *Mulvaney Says No Shutdown, Even with Border Ask*, CNN (Apr. 21, 2017, 2:26 PM), <http://www.cnn.com/2017/04/21/politics/mick-mulvaney-border-wall/>; Editorial Board, *Up Against the Wall*, N.Y. TIMES, Apr. 8, 2017, <https://www.nytimes.com/2017/04/08/opinion/up-against-the-wall.html>; Fox & Friends, *Bids to Build President Trump’s Border Wall Due Today*, FOXNEWS INSIDER (Apr. 4, 2017, 7:59 AM), <http://insider.foxnews.com/2017/04/04/mexico-border-wall-bids-due-today-president-trump-illegal-immigration-policy>; T. Christian Miller, *Trump’s Wall: How Much Money Does the Government Have for It Now?*, PROPUBLICA (Apr. 13, 2017, 1:34 PM), <https://www.propublica.org/article/trumps-wall-how-much-money-does-the-government-have-for-it-now>; Phillip Molnar & Lyndsay Winkley, *Trump’s Border Wall Will Get Its Start in San Diego*

coverage has included numerous stories about Mr. Luckey’s potential involvement in border security efforts.³³

As noted above in our fee waiver request, the requested records will help American Oversight and the general public understand what individuals, groups, and interests are being represented as the government undertakes this mammoth construction project. Mr. Trump has previously evidenced a propensity for inside deals with his friends in the construction industry.³⁴ He has also insisted that he will be personally involved in the wall’s “design and negotiations” to ensure it comes in under budget.³⁵ It has been thoroughly reported that Messrs. Johnson and Luckey have ties to the Trump campaign and/or Mr. Trump’s current political advisors.³⁶ These connections make it all the more important for the public to understand whether and to what extent those individuals are involved in the planning for—or execution of—the building of a wall along the U.S.-Mexico border. The requested records are necessary to help the public evaluate whether this massive undertaking is free from inappropriate influence.

In short, a multi-billion-dollar construction project directed and financed by the federal government using tax dollars on an accelerated timeline is a quintessential example of “[a] matter

County, L.A. TIMES, Apr. 10, 2017, <http://www.latimes.com/local/lanow/la-me-san-diego-border-wall-20170410-story.html>; Nixon, *supra* note 14; Nicki Rossoll, *Despite Trump Campaign Promise, Tillerson Had ‘No Conversation’ with Mexico Paying for Border Wall*, ABC NEWS (Apr. 9, 2017, 9:01 AM), <http://abcnews.go.com/Politics/trump-campaign-promise-tillerson-conversation-mexico-paying-border/story?id=46685291>; Taylor, *supra* note 7; Alex Veiga, *Who Would Gain from Trump’s Border Wall?*, DETROIT NEWS, Apr. 1, 2017, <http://www.detroitnews.com/story/news/nation/2017/04/01/border-wall-trump/99907624/>.

³³ See Nick Wingfield, *Oculus Founder Plots a Comeback with a Virtual Border Wall*, N.Y. TIMES, June 4, 2017, <https://www.nytimes.com/2017/06/04/business/oculus-palmer-luckey-new-start-up.html>; Tim Collins, *Could Illegal Immigrants Be Kept Away from America’s Borders by Virtual Walls? US Entrepreneur Is Working with Donald Trump To Create a Defence that Uses Lasers and Sensors*, DAILY MAIL (June 5, 2017, 5:34 PM), <http://www.dailymail.co.uk/sciencetech/article-4572884/Palmer-Luckey-developing-virtual-border-wall-technology.html>; Perry Chiamonte, *Oculus VR Co-Founder Aims to Build Virtual US-Mexico Border Wall*, FOX NEWS, June 13, 2017, <http://www.foxnews.com/us/2017/06/13/oculus-vr-co-founder-aims-to-build-virtual-us-mexico-border-wall.html>.

³⁴ Blake Schmidt & Jonathan Levin, *Miami Billionaire Perez Rejects His Friend Trump’s Wall Overture*, BLOOMBERG, Jan. 31, 2017, <https://www.bloomberg.com/news/articles/2017-01-31/miami-billionaire-perez-rejects-his-friend-trump-s-wall-overture> (“[Jorge] Perez, a billionaire who has built Trump-branded towers in South Florida, said the president e-mailed him after the inauguration with plans for the wall and asked if he’d be interested in working on it.”).

³⁵ Donald J. Trump (@realdonaldtrump), TWITTER (Feb. 11, 2017, 9:18 AM), <https://twitter.com/realdonaldtrump/status/830405706255912960>; Donald J. Trump (@realdonaldtrump), TWITTER (Feb. 11, 2017, 9:24 AM), <https://twitter.com/realdonaldtrump/status/830407172747988992>.

³⁶ See *supra* notes 9, 11-12.

of widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence."³⁷

Accordingly, American Oversight's request satisfies the criteria for expedition.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with DHS on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact Cerissa Cafasso at foia@americanoversight.org or 202.869.5246. 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,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers
Executive Director
American Oversight

³⁷ 6 C.F.R. § 5.5(e)(1)(iv).