



November 19, 2019

VIA EMAIL AND ONLINE PORTAL

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USTR FOIA Office, GSD/RDF  
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Via FOIAOnline

## 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.

Public records indicate that President Trump's personal businesses—which Trump still owns, despite turning over day-to-day management to his sons—have benefited significantly from federal and campaign spending since Trump took office.<sup>1</sup> Notably,

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<sup>1</sup> David Fahrenthold, et al., *When Trump Visits His Clubs, Government Agencies and Republicans Pay to Be Where He Is*, WASH. POST (June 20, 2019, 9:16 PM), [https://www.washingtonpost.com/politics/when-trump-visits-his-clubs-government-agencies-and-republicans-pay-to-be-where-he-is/2019/06/20/a4c13c36-8ed0-11e9-adf3-f70f78c156e8\\_story.html](https://www.washingtonpost.com/politics/when-trump-visits-his-clubs-government-agencies-and-republicans-pay-to-be-where-he-is/2019/06/20/a4c13c36-8ed0-11e9-adf3-f70f78c156e8_story.html).

reporting in September 2019 indicated that the Defense Department alone has spent almost \$200,000 in stays at the Trump Turnberry resort since 2017.<sup>2</sup>

American Oversight seeks records to shed light on the extent to which taxpayer dollars are personally benefiting the President, and whether and to what extent federal agencies have avoided or encouraged the use of Trump Properties for official business.

### **Requested Records**

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

1. All guidance, directives, instructions, policies, and procedures (including that transmitted via email, memoranda, or other means of communication) regarding the use of properties owned by the Trump Organization for government-sponsored meetings, conferences, or travel. Both technical/logistical guidance as well as policy guidance should be considered responsive to this request.
2. All guidance, directives, instructions, policies, and procedures (including that transmitted via email, memoranda, or other means of communication) regarding reimbursement for meals, overnight stays, or other expenses incurred at properties owned by the Trump Organization. Both technical/logistical guidance as well as policy guidance should be considered responsive to this request.
3. All records reflecting costs reimbursed or paid directly by your agency for visits to any property owned by the Trump Organization. Reimbursements include payments for lodging, meals, conference fees, incidental expenses, costs for transportation, costs of individual airfare, per diem payments, overtime payments, payments made via government-issued charge cards or travel cards, or other reimbursable expenses. This request encompasses costs incurred not only by government employees, but also by their spouses or any staff or security detail assigned to government employees traveling to any Trump Organization property.

The public website of the Trump Organization indicates that a reasonable search should include, at a minimum, the list of hotels and golf properties included in Appendix A.

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<sup>2</sup> Eric Lipton, *Pentagon Says It Spent \$184,000 in 2 Years at Trump's Scotland Resort*, N.Y. TIMES, Sept. 18, 2019, <https://www.nytimes.com/2019/09/18/us/politics/pentagon-trump-turnberry.html>.

The search for responsive records should include all individuals and locations where records are likely to exist, including the immediate office of the agency head, the designated agency ethics official, and all agency offices involved in making travel arrangements or receiving, approving, paying, reimbursing, or auditing travel expenses.

Please provide all responsive records from July 24, 2017, 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 understanding the extent to which taxpayer dollars are being used to enrich the president, who continues to benefit financially from the Trump Organization.<sup>4</sup> Records with the potential to shed light on this issue would contribute significantly to public understanding of operations of the federal government, including how the federal government is recommending the selection of venues for official business. 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

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

<sup>4</sup> See *supra* note 1.

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

materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>6</sup>

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.<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 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>8</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>9</sup> posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;<sup>10</sup> posting records and analysis relating to the federal government's efforts to sell nuclear technology to Saudi Arabia;<sup>11</sup> and posting records and analysis regarding the 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.<sup>12</sup>

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<sup>6</sup> American Oversight currently has approximately 12,280 page likes on Facebook and 55,800 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Nov. 7, 2019); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Nov. 7, 2019).

<sup>7</sup> News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

<sup>8</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>9</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>10</sup> *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>.

<sup>11</sup> *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>.

<sup>12</sup> *Sessions' Letter Shows DOJ Acted on Trump's Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

Accordingly, American Oversight qualifies for a fee waiver.

For the U.S. Department of the Treasury, pursuant to 31 C.F.R. § 1.5(b)(7) and notwithstanding its fee waiver request, American Oversight hereby states that it is willing to pay fees in an amount not more than \$25.00.

### **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. For instance, if the request seeks “communications,” please search all locations likely to contain communications, including relevant hard-copy files, correspondence files, appropriate locations on hard drives and shared drives, emails, text messages or other direct messaging systems (such as iMessage, WhatsApp, Signal, or Twitter direct messages), voicemail messages, instant messaging systems such as Lync or ICQ, and shared messages systems such as Slack.
- 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

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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).



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 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 to discuss this request. American Oversight welcomes an opportunity

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<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>.



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 Hart Wood at [foia@americanoversight.org](mailto:foia@americanoversight.org) or 202.873.1743. 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, appearing to read "Austin R. Evers", with a long horizontal flourish extending to the right.

Austin R. Evers  
Executive Director  
American Oversight

## Appendix A

The website of the Trump Organization indicates that a reasonable search should include, at a minimum, the following list of hotels and golf properties:

- i. Trump International Hotel, Washington D.C.
- ii. Trump National Doral, Miami, Florida
- iii. Trump International Hotel and Tower, Waikiki, Hawaii
- iv. Trump International Hotel and Tower, Chicago, Illinois
- v. Trump International Hotel and Tower, Las Vegas, Nevada
- vi. Trump International Hotel and Tower, New York, New York
- vii. Trump Turnberry, Turnberry, Scotland
- viii. Trump International Hotel and Tower, Vancouver, British Columbia
- ix. Trump International Golf Links and Hotel, Doonbeg, Ireland
- x. Macleod House and Lodge, Aberdeen Scotland
- xi. Albemarle Estate, Charlottesville, Virginia
- xii. Trump National Golf Club, Los Angeles, California
- xiii. Trump International Golf Club, Dubai, UAE
- xiv. Trump National Golf Club, Bedminster, New Jersey
- xv. Trump National Golf Club, Charlotte, North Carolina
- xvi. Trump National Golf Club, Colts Neck, New Jersey
- xvii. Trump National Golf Club, Hudson Valley, New York
- xviii. Trump National Golf Club, Jupiter, Florida
- xix. Trump International Golf Club, West Palm Beach, Florida
- xx. Trump National Golf Club Philadelphia, Pine Hill, New Jersey
- xxi. Trump International Golf Club, Washington, D.C.
- xxii. Trump National Golf Club, Westchester, New York
- xxiii. Trump World Golf Club, Dubai, UAE
- xxiv. Trump International Hotel, Lido City, Indonesia
- xxv. Trump International Golf Club and Resort, Bali Indonesia
- xxvi. Trump Tower, New York, New York
- xxvii. Trump Park Avenue, New York, New York
- xxviii. Trump World Tower, New York, New York
- xxix. Trump Parc, New York, New York
- xxx. Trump Parc East, New York, New York
- xxxi. 200 Riverside Boulevard, New York, New York
- xxxii. 220 Riverside Boulevard, New York, New York
- xxxiii. 240 Riverside Boulevard, New York, New York
- xxxiv. Trump Palace, New York, New York
- xxxv. Trump Plaza, New York, New York
- xxxvi. Trump Park Residences Yorktown, New York, New York
- xxxvii. Trump Tower City Center, New York, New York
- xxxviii. 610 Park Avenue, New York, New York
- xxxix. Trump Bay Street, New Jersey
- xl. Trump Plaza Residences, New Jersey

- xli. Trump Parc Stamford, Connecticut
- xlii. Trump Grande, Florida
- xlili. Trump Tower Sunny Isles, Florida
- xliv. Trump Hollywood, Florida
- xlv. Trump Towers, Pune, India
- xlvi. Trump Tower, Mumbai, India,
- xlvii. Trump Tower, Kolkata, India
- xlviii. Trump Tower, Delhi NCR, India
- xlix. Trump Tower at Century City Makati, Philippines
  - 1. Trump World Seoul, South Korea
  - li. Trump Towers Istanbul, Turkey
  - lii. Trump Residences Bali, Indonesia
  - liii. Trump Residences Lido, Indonesia
  - liv. Trump Tower Punta Del Este, Uruguay
  - lv. Seven Springs, Bedford New York
  - lvi. The Mar-a-Lago Club, Palm Beach, Florida
  - lvii. The Estates at Trump National, Los Angeles, California
  - lviii. Le Chateau des Palmiers, St. Martin