



November 18, 2019

VIA ELECTRONIC MAIL

The Honorable Phil King
State Representative
P.O. Box 2910
Austin, Texas 78768-2910
phil.king@house.texas.gov

Re: Public Information Request

Dear Public Information Officer:

Pursuant to the Texas Public Information Act, as codified at Tex. Code ch. 552, American Oversight makes the following request for public records.

Requested Records

1. All records reflecting communications (including emails, email attachments, text messages, calendar invitations/entries, letters, directives, memoranda, informational materials, draft legislation, talking points, or other communications) between (1) the Office of Representative King and (2) any individuals or representatives of any of the entities listed below:
 1. Anyone communicating on behalf of the Republican State Leadership Committee (including, but not limited to, communications with any email address ending in rslc.gop)
 2. Anyone communicating on behalf of Geographic Strategies LLC
 3. Anyone communicating on behalf of Fair Lines America
 4. Anyone communicating on behalf of Polidata (including, but not limited to, communications with any email address ending in polidata.org)
 5. Adam Kincaid, National Republican Redistricting Trust (including, but not limited to, communications with the email address adam@thenrrt.org)
 6. Scott Walker, National Republican Redistricting Trust (including, but not limited to, communications with an email address ending in nrرت.org)
 7. Guy Harrison, National Republican Redistricting Trust (including, but not limited to, communications with an email address ending in nrرت.org)
 8. Jason Torchinsky, National Republican Redistricting Trust (including, but not limited to, communications with an email address ending in nrرت.org)
 9. Gail Gitcho, National Republican Redistricting Trust (including, but not limited to, communications with an email address ending in nrرت.org)



10. Lauren Bryan, National Republican Redistricting Trust (including, but not limited to, communications with an email address ending in nrرت.org)
11. Ronald Keith Gaddie, Ph.D. (including, but not limited to, communications with the email address rkgaddie@ou.edu)
12. Dale Oldham (including, but not limited to, communications with the email addresses dalton.oldham@excite.com, d.oldham@yahoo.com, or Dalton.oldham@scbar.org)
13. Eric Opiela (including, but not limited to, communications with the email address, eopielа@ericopielа.com)
14. Debra Levine, Skyline Consulting (including, but not limited to, communications with the email address levdebra@aol.com)
15. Doug Johnson, National Demographics Corporation (including, but not limited to, communications with the email address djohnson@ndcresearch.com)
16. Jeff Timmer, Two Rivers Public Affairs (including, but not limited to, communications with the email address jeff@tworiverspublicaffairs.com)
17. Janet Thorton, Ph.D. (including, but not limited to, communications with the email address jthorton@thinkbrg.com)
18. Nicholas Goedert, Ph.D. (including, but not limited to, communications with the email address ngoedert@vt.edu)
19. Sean Trende (including, but not limited to, communications with the email address strende@realclearpolitics.com)
20. Cleta Mitchell (including, but not limited to, communications with the email address cmitchell@foley.com)
21. John Morgan (including, but not limited to, communications with the email address jmorgan@appliedresearchcoordinates.com)
22. Thomas Farr (including, but not limited to, communications with the email address Thomas.farr@ogletreedeakins.com)
23. Chris Jankowski (including, but not limited to, communications with the email addresses jcj@chrisjankowski.com, chris@jankowski.com, me@chrisjankowski.com, chrisjankowski@sbcglobal.net, or cjankowski@hvjtlлc.com)
24. Karl Rove (including, but not limited to, communications with the email addresses karl@rove.com or kr@rove.com)
25. Ed Gillespie (including, but not limited to, communications with the email addresses egillespie@sardverb.com or egillespie@virginia.gop)
26. Joel Raupe (including, but not limited to, communications with the email address joelraupe@gmail.com)
27. Lynn Westmoreland (including, but not limited to, communications with the email address lynn@lynnwestmoreland.org)
28. Hans von Spakovsky, Heritage Foundation (including, but not limited to, communications with the email address hans.vonspakovsky@heritage.org)
29. J. Christian Adams (including, but not limited to, communications with the email address adams@publicinterestlegal.org, a@electionlawcenter.com, or adams@electionlawcenter.com)

30. Clark Benson

Please provide all responsive records from December 1, 2018, to May 29, 2019.

2. All email communications (including emails, email attachments, calendar invitations/entries, or other email communications) between (1) the Office of Representative King and (2) anyone communicating with an email address ending in gop.com or rnchq.org.

Please provide all responsive records from December 1, 2018, to May 29, 2019.

American Oversight seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the term “record” in its 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.**

In addition, American Oversight insists that your office 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; governmental authorities may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.**

Please search all records regarding official business. **You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts.** Emails conducting government business sent or received on the personal account of a governmental authority’s officer or employee constitutes a record for purposes of the Texas Public Information Act.¹

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. If a request is denied in whole, please state specifically that 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 your office before the completion of processing for this request. If records potentially responsive to

¹ Tex. Code § 552.002(a-2); *see also* *Adkisson v. Paxton*, 459 S.W.3d 761, 773 (Tex. App. 2015).

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.

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 your office 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 a rolling basis.

Fee Waiver Request

In accordance with Tex. Code § 552.267(a), American Oversight requests a waiver of fees associated with processing this request for records because such a waiver “is in the public interest because providing the copy of the information primarily benefits the general public.” The public has a significant interest in redistricting, particularly in advance of the 2020 United States Census.² Records with the potential to shed light on this matter would contribute significantly to the public understanding of operations of the state government, including whether and to what extent outside groups with a focus on redistricting are involved in Texas’ redistricting process.

Release of the requested records will primarily benefit the public.³ As a 501(c)(3) nonprofit, American Oversight does not have a commercial purpose and the release of the requested records is not in American Oversight’s financial interest, but is rather in the public interest. American Oversight is committed to transparency and makes the responses governmental authorities provide to public records requests publicly available. As noted, the subject of this request is a matter of public interest, and the public would benefit from an enhanced understanding of the government’s activities through American Oversight’s analysis and publication of these records. 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

² See, e.g., Ross Ramsey, *Analysis: Texas Redistricting Is Hard Enough When Politicians Trust the Mapmakers*, TEX. TRIBUNE, Sept. 16, 2019, <https://www.texastribune.org/2019/09/16/texas-redistricting-hard-enough-when-politicians-trust-mapmakers/>; Chris Fox, *Texas Could Pick Up 3 Congressional Seats, Public Warns Against Gerrymandering*, KRLD, Sept. 11, 2019, <https://krlr.radio.com/articles/news/texas-could-pick-3-congressional-seats>.

³ Tex. Code § 552.267(a).

website and promotes their availability on social media platforms, such as Facebook and Twitter.⁴ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior United States Department of Justice (DOJ) attorney,⁵ American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.⁶ As another example, American Oversight has a project 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.⁷ American Oversight similarly intends to engage with media outlets in Texas to ensure that the general public within the state has access to the information American Oversight obtains.

Accordingly, American Oversight qualifies for a fee waiver. If your office denies a fee waiver, please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

Conclusion

We share a common mission to promote transparency in government. American Oversight looks forward to working with your office 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 Emma Lewis at records@americanoversight.org or 202.919.6303. Also, if American

⁴ American Oversight currently has approximately 12,600 page likes on Facebook and 54,800 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Oct. 8, 2019); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Oct. 8, 2019).

⁵ *DOJ Records Relating to Solicitor General Noel Francisco's Recusal*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/document/doj-civil-division-response-noel-francisco-compliance>.

⁶ *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>.

⁷ *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>.

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 left.

Austin R. Evers
Executive Director
American Oversight