VIA EMAIL

FEMA Information Management Division
FOIA Request
500 C Street SW, Mailstop 3172
Washington, DC 20472
fema-foia@fema.dhs.gov

Re: Freedom of Information Act Request

Dear FOIA Officer(s):

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.

The outbreak of the novel coronavirus, SARS-CoV-2, and the disease it causes, COVID-19, has been declared a public health emergency at both the national and international levels.\(^1\) Since late 2019, the virus has spread to dozens of countries, sickened hundreds of thousands of people, and resulted in tens of thousands of deaths.\(^2\) This is a rapidly evolving situation that is demanding coordinated attention and action across the federal government. Yet the Trump administration has discouraged health experts from speaking about the growing crisis,\(^3\) and removed information on the spread of the virus from public health resources.\(^4\) President Trump has consistently downplayed the threat of the virus to

\(^1\) [Coronavirus Disease 2019 (COVID-19) Situation Summary](https://www.cdc.gov/coronavirus/2019-ncov/summary.html), CENTERS FOR DISEASE CONTROL AND PREVENTION.


public health, and recently expressly prioritized the economy over American lives. Despite invoking the Defense Production Act to address nationwide shortages of critical medical supplies, the president has so far declined to use this authority to direct industries to produce needed materials. Furthermore, three states which President Trump has declared coronavirus disaster areas have not yet received the accompanying Disaster Unemployment Assistance funds disbursed by FEMA to address the virus’s escalating economic consequences.

American Oversight seeks records with the potential to shed light on how the administration is handling this public health emergency.

**Requested Records**

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

All email communications (including emails, complete email chains, email attachments, calendar invitations, and calendar invitation attachments) sent by (a) the U.S. Federal Emergency Management Agency (FEMA) officials to (b) representatives of the federal government with email addresses ending in cdc.gov, dhs.gov, doc.gov, dol.gov, eop.gov, hhs.gov, fda.gov, treasury.gov, army.mil, defense.gov, or mail.mil containing any of the key terms listed below.

**FEMA Officials:**
- Administrator Pete Gaynor
- Acting Deputy Administrator, Daniel Kaniewski

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c. Chief Operating Officer, Mary Comans
d. Chief of Staff, Eric Heighberger
e. Deputy Chief of Staff, Myung Kim
f. Chief Financial Officer, Benjamin Moncarz
g. Chief Counsel, Adrian Sevier
h. Deputy Administrator for Protection and National Preparedness, Daniel Kaniewski
i. Assistant Administrator for Grant Programs, Bridget Bean
j. Chief Procurement Officer, Bobby McCane
k. Associate Administrator for Office of Response and Recovery, David Bibo
l. Deputy Associate Administrator for Office of Response and Recovery, Jeffrey Dorko
m. Assistant Administrator for Response, Damon Penn
n. Assistant Administrator for Recovery, Keith Turi
o. Assistant Administrator for Logistics Management, Carla Gammon
p. Assistant Administrator for Field Operations, John Rabin
q. Region II Administrator, Thomas Von Essen
r. Region X Administrator, Mike O’Hare
s. Colonel Patrick Work
t. Anyone else serving in a lead role implementing the Defense Production Act on behalf of FEMA

Key Terms:

1. Coronavirus
2. Corona
3. Virus
4. Viral
5. COVID
6. POTUS
7. VPOTUS
8. Test
9. Tests
10. Testing
11. Kit
12. Kits
13. Contagion
14. Contagious
15. Infect
16. Infectious
17. Transmission
18. Asymptomatic
19. Epidemic
20. Pandemic
21. Quarantine
22. Quarantined
23. Isolate
24. Isolation
25. Lockdown
26. Distancing
27. Sanitizing
28. Disinfect
29. Disinfecting
30. Panic
31. “Disaster assistance”
32. Unemployment
33. DUA
34. “Disaster Relief Fund”
35. DRF
36. R0
37. PPE
38. “Personal protective”
39. “medical equipment”
40. Mask
41. Masks
42. N95
43. N95s
44. Gown
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<td>Stopthespread.org</td>
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Please provide all responsive records from February 24, 2020, through March 31, 2020.

**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.” 10 The public has a significant interest in the federal government’s response to this national public health emergency. 11 Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including how effectively the government is protecting both the health and human rights of everyone in the country during this crisis. 12 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. 13 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 Twitter. 14

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. 15 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; 16 posting records received as part of American Oversight’s “Audit the Wall”

project to gather and analyze information related to the administration’s proposed
collection of a barrier along the U.S.-Mexico border, and analyses of what those records
reveal;17 posting records regarding potential self-dealing at the Department of Housing &
Urban Development and related analysis;18 posting records and analysis relating to the
federal government’s efforts to sell nuclear technology to Saudi Arabia;19 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.20

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.

- 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

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17 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,

18 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.

19 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.

20 Sessions’ Letter Shows DOJ Acted on Trump’s Authoritarian Demand to Investigate Clinton,
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.\textsuperscript{21} 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.\textsuperscript{22}

- 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,\textsuperscript{23} 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 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 Christine H. Monahan at foia@americanoversight.org or 202.869.5244. 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,

Austin R. Evers  
Executive Director  
American Oversight