



June 1, 2020

VIA: EMAIL & FOIA ONLINE

U.S. Department of State
Office of Information Programs and
Services
A/GIS/IPS/RL
SA-2, Suite 8100
Washington, DC 20522-0208
FOIArequest@state.gov

General Services Administration
FOIA Contact
FOIA Requester Service Center (H1C)
Room 7308
1800 F Street NW
Washington, DC 20405
Via FOIAOnline

U.S. Army
Freedom of Information Act Office
Records Management and
Declassification Agency
9301 Chapek Rd., Bldg 1458
Fort Belvoir, VA 22060-5605
usarmy.belvoir.hqda-oaa-ahs.mbx.rmda-foia@mail.mil

U.S. Navy
Freedom of Information Officer
Chief of Naval Operations, DNS-36
2000 Navy Pentagon
Washington, DC 20350-2000
DONFOIA-PA@navy.mil

Re: Freedom of Information Act Request

Dear FOIA Officers:

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.

In summer 2018, Secretary of State Mike Pompeo reportedly requested to move his personal residence to the Potomac Hill campus—an 11.8-acre campus historically controlled by the U.S. Navy and stewarded by the General Services Administration (GSA) and Department of State (State).¹ After months of negotiation, Pompeo reportedly received approval to rent one of the homes on the campus. State claimed Pompeo would “personally pay fair market value for the residence” and “[t]his arrangement will present taxpayers a significant cost savings over options that previous secretaries of state

¹ *Potomac Hill Campus Background*, U.S. GEN. SERVS. ADMIN., last reviewed Feb. 26, 2019, <https://www.gsa.gov/about-us/regions/national-capital-region-11/buildingsfacilities/development-projects/potomac-hill-campus/history>.



utilized.”² Other reports, instead, suggest that Secretary Pompeo has resided at the U.S. Army’s Fort Myer in Virginia.³ Secretary Pompeo’s potential use of government resources for personal benefit is troubling in light of recent reports that he advised the president to remove State’s Inspector General while Secretary Pompeo may have been under investigation for improperly using State employees and resources for personal tasks.⁴

American Oversight seeks records to shed light on, among other issues, whether and to what extent Secretary Pompeo’s reported military housing arrangement has in fact saved taxpayer dollars.

Requested Records

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

- 1) Records sufficient to identify any housing rent or lease payments made by Secretary Mike Pompeo or any member of his family to any military component for housing provided in the Washington, DC region, including but not limited to, any housing at Potomac Hill or Fort Myer.
- 2) Records sufficient to identify any housing rent or lease payments made by the State Department (on behalf of Secretary Mike Pompeo) to any military component for housing provided to Secretary Pompeo and/or his family in the Washington, DC region, including but not limited to, any housing at Potomac Hill or Fort Myer.

Please provide all responsive records from April 26, 2018, through the date the search is conducted.⁵

² Gardiner Harris & Eric Schmitt, *To Secure Better Housing, Top Diplomat Pulls Rank on the Military*, N.Y. TIMES, Sept. 7, 2018,

<https://www.nytimes.com/2018/09/07/us/politics/pompeo-military-housing-.html>.

³ Michelle Kozinski (@MichLKosinski), TWITTER (May 19, 2020, 4:24 PM),

<https://twitter.com/MichLKosinski/status/1262841515124166662> (NEW: Secretary Pompeo does NOT live across the street from State, as I have seen it reported over and over again. He lives at Fort Myer, in Virginia. He moved there in Sept. 2018. (thread)).

⁴ Zachary Cohen, *State Department Inspector General Was Investigating If Pompeo Made Staffer Walk His Dog and Run Other Personal Errands*, CNN (May 18, 2020, 6:22 AM),

<https://www.cnn.com/2020/05/17/politics/state-department-inspector-general-pompeo-errands/index.html>.

⁵ American Oversight believes that your agency is best positioned to determine the agency components likely to possess records responsive to this request. However, based on publicly available information, American Oversight requests that State’s search include at a minimum the following components: The Office of the Secretary, The Executive Secretariat, The Under Secretary for Management, and The Bureau of Diplomatic Security.

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."⁶ The public has a significant interest in understanding whether public resources are being inappropriately used for the personal financial benefit of high-ranking officials such as Secretary Pompeo. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the federal government, including whether Secretary Pompeo has sought or received a housing arrangement that provides or may provide significant personal benefit to the Secretary at government expense. 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.⁷ 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.⁸

GSA, the Army, and the Navy should identify the offices and components that would handle housing matters such as Secretary Pompeo's arrangement, as well as leadership personnel likely to be involved in such matters.

⁶ 5 U.S.C. § 552(a)(4)(A)(iii).

⁷ *See id.*

⁸ American Oversight currently has approximately 15,500 page likes on Facebook and 102,300 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited May 26, 2020); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited May 26, 2020).

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.⁹ 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;¹⁰ 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;¹¹ posting records regarding potential self-dealing at the Department of Housing & Urban Development and related analysis;¹² posting records and analysis relating to the federal government’s efforts to sell nuclear technology to Saudi Arabia;¹³ 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.¹⁴

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:

⁹ News, AMERICAN OVERSIGHT, <https://www.americanoversight.org/blog>.

¹⁰ *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>.

¹¹ 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>.

¹² *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>.

¹³ *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>.

¹⁴ *Sessions’ Letter Shows DOJ Acted on Trump’s Authoritarian Demand to Investigate Clinton*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/sessions-letter>.

- Please search all locations and systems likely to have 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 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.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, by intent or through negligence, failed to meet their obligations.¹⁶
- 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,¹⁷ and many agencies have adopted the National Archives and Records Administration (NARA) Capstone program, or similar policies. These systems provide options for searching

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).

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>.

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 Dan McGrath at foia@americanoversight.org or

202.897.4213. 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 'MS', is positioned above the typed name.

Melanie Sloan
Senior Advisor
American Oversight