



July 28, 2020

VIA EMAIL

Jane Eyre
Deputy Chief FOIA Officer
Privacy & Records Management Office
U.S. Postal Service
475 L'Enfant Plaza SW, RM 1P830
Washington, DC 20260
FOIA12@usps.gov

Re: Expedited Freedom of Information Act Request

Dear Ms. Eyre:

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.

On May 6, 2020, the Postal Board of Governors of the United States Postal Service (USPS) announced the selection of Louis DeJoy to be Postmaster General.¹ Prior to his appointment, Mr. DeJoy was the “the lead fundraiser for the 2020 Republican National Convention in Charlotte.”² Some have raised concerns about Mr. DeJoy’s partisan history.³

¹ United States Postal Service, *Board of Governors Announces Selection of Louis DeJoy to Serve as Nation’s 75th Postmaster General*, May 6, 2020, <https://about.usps.com/newsroom/national-releases/2020/0506-bog-announces-selection-of-louis-dejoy-to-serve-as-nations-75th-postmaster-general.htm>.

² Daniel Finnegan, *Lead Fundraiser for Charlotte RNC Named Postmaster General. He Starts in June.*, Triad Business J. (May 7, 2020, 11:01 AM), <https://www.bizjournals.com/charlotte/news/2020/05/07/lead-fundraiser-for-charlotte-rnc-named-postmaster.html>.

³ Jacob Bogage, *Trump Ally Takes Over Crisis-Ridden Postal Service As Top Senate Democrat Demands Inquiry on Hiring*, Wash. Post (June 15, 2020, 7:00 AM),; <https://www.washingtonpost.com/business/2020/06/15/trump-postal-service-dejoy/>; Donald K. Sherman, *Trump's New Postmaster General Could Corrupt a Key Institution Ahead of Election Day*, NBC Opinion (July 19, 2020, 7:38 AM), <https://www.nbcnews.com/think/opinion/trump-s-2020-usps-appointment-could-corrupt-key-institution-ahead-ncna1234125>.



American Oversight submits this request to shine light on Mr. DeJoy's priorities and activities as Postmaster General.

Requested Records

American Oversight seeks expedited review of this request for the reasons identified below and requests that USPS produce the following records as soon as practicable, and at least within twenty business days:

All email communications (including email messages, email attachments, and complete email chains) sent by Louis DeJoy or anyone serving as his Chief of Staff or deputy that contain any of the following terms:

- a) VBM
- b) "vote-by-mail"
- c) "vote by mail"
- d) "mail-in-voting"
- e) "voter fraud"
- f) "election mail"
- g) "election integrity"
- h) "voter fraud"
- i) "ballot fraud"
- j) Ballot
- k) Ballots
- l) Absentee
- m) "Honest Elections"
- n) honestelections.org
- o) "Public Interest Legal Foundation"
- p) PILF
- q) publicinterestlegal.org
- r) "True the Vote"
- s) TTV
- t) truethevote.org
- u) "American Constitutional Rights Union"
- v) ACRU
- w) theacru.org
- x) POTUS
- y) "White House"
- z) "the WH"
- aa) "CARES Act"
- bb) Mnuchin
- cc) Engelbrecht
- dd) "Leonard Leo"
- ee) Spakovsky
- ff) Kobach

Please provide all responsive records from June 15, 2020, through the date of the search.

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."⁴ The public has a significant interest in USPS's response to increased demand for vote by mail amidst the COVID-19 pandemic and reporting that USPS is slowing mail delivery.⁵ Records with the potential to shed light on this would contribute significantly to public understanding of operations of the federal government, including whether Postmaster DeJoy is adequately preparing USPS to facilitate increased demand for vote by mail in the 2020 general election. 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.⁶ 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.⁷

⁴ 5 U.S.C. § 552(a)(4)(A)(iii).

⁵ Sherman, *supra* note 3; Jacob Bogage, *Postal Service Memos Detail 'Difficult' Changes, Including Slower Mail Delivery*, Wash. Post (July 14, 2020, 12:47 PM), <https://www.washingtonpost.com/business/2020/07/14/postal-service-trump-dejoy-delay-mail/>.

⁶ See 5 U.S.C. § 552(a)(4)(A)(iii).

⁷ American Oversight currently has approximately 15,500 page likes on Facebook and 104,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited July 24, 2020); American

American Oversight has also demonstrated its commitment to the public disclosure of documents and creation of editorial content through regular substantive analyses posted to its website.⁸ Examples reflecting this commitment to the public disclosure of documents and the creation of editorial content include the posting of records related to the Trump Administration’s contacts with Ukraine and analyses of those contacts;⁹ posting records and editorial content about the federal government’s response to the Coronavirus pandemic;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 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;¹² and posting records and analysis of federal officials’ use of taxpayer dollars to charter private aircraft or use government planes for unofficial business.¹³

Accordingly, American Oversight qualifies for a fee waiver.

Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited July 24, 2020).

⁸ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>.

⁹ *Trump Administration’s Contacts with Ukraine*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-contacts-with-ukraine>.

¹⁰ See generally *The Trump Administration’s Response to Coronavirus*, American Oversight, <https://www.americanoversight.org/investigation/the-trump-administrations-response-to-coronavirus>; see, e.g., *‘We’ve All Given Up Getting a Straight Answer From You Guys: Frustrated Emails Between Illinois Governor’s Office and White House*, <https://www.americanoversight.org/weve-all-given-up-getting-a-straight-answer-from-you-guys-frustrated-emails-between-illinois-governors-office-and-white-house>.

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 *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>.

¹³ See generally *Swamp Airlines: Chartered Jets at Taxpayer Expense*, American Oversight, <https://www.americanoversight.org/investigation/swamp-airlines-private-jets-taxpayer-expense>; see e.g. *New Information on Pompeo’s 2017 Trips to His Home State*, American Oversight, <https://www.americanoversight.org/new-information-on-pompeos-2017-trips-to-his-home-state>.

Application for Expedited Processing

Pursuant to 5 U.S.C. § 552(a)(6)(E)(1) and the regulations of your agency, 39 C.F.R. § 265.5(c), American Oversight requests that your agency expedite the processing of this request.

I certify to be true and correct to the best of my knowledge and belief that the information requested is urgently needed in order to inform the public concerning actual or alleged government activity.

There is an urgent need to inform the public of Postmaster General DeJoy's views on and actions related to vote by mail, in light of USPS's vital and nearly exclusive role in delivering voter registration and ballot materials for the November 2020 elections. The COVID-19 pandemic has dramatically increased the public's desire to register to vote and to cast ballots by mail.¹⁴ USPS and Mr. DeJoy, as leader of the agency, play a critical role in ensuring voters are able to obtain and return voting materials by mail, thereby exercising a critical right of citizenship without being forced to take on personal health risk. The existence of numerous articles published on the role USPS plays in vote by mail efforts demonstrates that the public urgently needs information contained in the records requested by American Oversight.¹⁵ Furthermore, public officials urgently need to understand Mr. DeJoy's views and actions on USPS's role in facilitating vote by mail so that they may effectively plan to manage the increased number of voter registration and ballots received by mail ahead of the November 2020 general election. Public officials and the public rely on USPS to facilitate vote by mail, and reporting shows that setting up and implementing voting by mail is an expensive and long process.¹⁶

I further certify that American Oversight is primarily engaged in disseminating information to the public. 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. Similar to other organizations that have been found

¹⁴ See, e.g. Grace Segers, *Calls For Increased Access to Vote-By-Mail Gain Traction Amid Coronavirus Pandemic*, CBS News (April 22, 2020, 1:43 PM), <https://www.cbsnews.com/news/vote-by-mail-gains-traction-coronavirus-pandemic/>;

¹⁵ See, e.g. Bogage, *supra* note 5; Brian Naylor, *As More Americans Prepare To Vote By Mail, Postal Service Faces Big Challenges*, NPR (May 30, 2020, 7:01 AM), <https://www.npr.org/2020/05/30/865258362/as-more-americans-prepare-to-vote-by-mail-postal-service-faces-big-challenges>; Ed Kilgore, *USPS Delivery Problems Adding to Suppression of Mail Ballot Votes*, New York Mag., July 15, 2020, <https://nymag.com/intelligencer/2020/07/usps-delivery-problems-adding-to-mail-ballot-woes.html>.

¹⁶ Amber Philips, *Why Voting By Mail Will Be So Hard For States So Set Up On The Fly*, Wash. Post (April 3, 2020, 6:00 AM), <https://www.washingtonpost.com/politics/2020/04/03/vote-by-mail-difficulties/>.

to satisfy the criteria necessary to qualify for expedition,¹⁷ American Oversight “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that work to an audience.”¹⁸ American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, and 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.¹⁹ As discussed previously, American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content.²⁰

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

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, since the request

¹⁷ See *ACLU v. U.S. Dep’t of Justice*, 321 F. Supp. 2d 24, 30–31 (D.D.C. 2004); *EPIC v. Dep’t of Defense*, 241 F. Supp. 2d 5, 15 (D.D.C. 2003).

¹⁸ *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).

¹⁹ American Oversight currently has approximately 15,500 page likes on Facebook and 104,200 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight> (last visited July 24, 2020); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited July 24, 2020).

²⁰ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; see, e.g., *Emails and Resume of Trump’s Pick to Head Government Personnel Office*, American Oversight, <https://www.americanoversight.org/emails-and-resume-of-trumps-pick-to-head-government-personnel-office>; *CDC Calendars from 2018 and 2019: Pandemic-Related Briefings and Meetings*, American Oversight, <https://www.americanoversight.org/cdc-calendars-from-2018-and-2019-pandemic-related-briefings-and-meetings>; *State Department Releases Ukraine Documents to American Oversight*, American Oversight, <https://www.americanoversight.org/state-department-releases-ukraine-documents-to-american-oversight>; *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>; *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>; *Sessions’ Letter Shows DOJ Acted On Trump’s Authoritarian Demand to Investigate Clinton*, American Oversight, <https://www.americanoversight.org/sessions-letter>.

seeks “emails communications,” please search all locations likely to contain such communications, including correspondence files, appropriate locations on hard drives and shared drives, and all relevant emails accounts.

- 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.
- 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. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.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.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,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

²¹ 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).

²² See *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, No. 14-cv-765, slip op. at 8 (D.D.C. Dec. 12, 2016).

²³ 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>.

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 Megan Field at foia@americanoversight.org or (202) 897-2465. Also, if American Oversight's request for expedition is not granted or its

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