



October 15, 2021

VIA EMAIL

Meagan Wolfe, Administrator
Wisconsin Elections Commission
212 East Washington Avenue, Third Floor
P.O. Box 7984
Madison, Wisconsin 53707-7984
elections@wi.gov

Re: Public Records Law Request

Dear Administrator Wolfe:

Pursuant to Wisconsin's public records law, Wis. Stat. §§ 19.31–19.39, American Oversight makes the following request for copies of records.

On February 11, 2021, the Wisconsin Joint Legislative Audit Committee voted to order the Legislative Audit Bureau (LAB) to conduct a review of the state's elections system.¹ Some legislators expressed concerns that the timing of such an audit might exacerbate concerns about election security after a number of lawsuits unsuccessfully sought to overturn the state's November 2020 election results.²

American Oversight seeks records with the potential to shed light on the LAB's review of Wisconsin's elections system, including the extent to which the LAB consulted the Wisconsin Elections Commission.

Requested Records

American Oversight requests that the Wisconsin Elections Commission produce the following records "as soon as practicable and without delay":³

All electronic communications (including emails, email attachments, text messages, or messages on messaging platforms, such as Slack, GChat or Google Hangouts, Lync, Skype, or WhatsApp) between Wisconsin Elections Commissioner Robert Spindell and the Legislative Audit Bureau regarding its 2021 review of Wisconsin's elections system.

¹ Shawn Johnson, *Republican Lawmakers Order Audit of Wisconsin's Election System*, WI Public Radio (Feb. 11, 2021, 4:55 PM), <https://www.wpr.org/republican-lawmakers-order-audit-wisconsins-election-system>.

² *Id.*

³ Wis. Stat. § 19.35(4)(a).



In the case of emails and texts, the search should include those sent or received by any individual or personal accounts associated with any of the individuals described above, if they were used to conduct official business, as well those sent from their official email addresses or official phones.

Please provide all responsive records from February 11, 2021, through the date the search is conducted.

Fee Waiver Request

In accordance with Wis. Stat. § 19.35(3)(e), American Oversight respectfully requests that the records be produced without charge. Providing American Oversight with a waiver of fees is in the “public interest” because American Oversight will, in accordance with its organizational mission, make the records available to the public without charge. These disclosures will likely contribute to a better understanding of relevant government procedures by the general public.

American Oversight’s work is aimed solely at serving the public interest. 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. Rather, American Oversight’s mission is to serve the public by promoting transparency in government, educating the public about government activities, and ensuring 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.⁴ American Oversight also makes materials it gathers available on its public website⁵ and promotes their availability on social media platforms, such as Facebook and Twitter.⁶

The public has a significant interest in the administration of elections in Wisconsin and the investigation undertaken by the LAB.⁷ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including the extent to which the Legislative Audit Bureau has received input from the Wisconsin Elections Commission. American Oversight is committed to

⁴ See generally *News*, American Oversight, <https://www.americanoversight.org/blog>; *State Investigations*, American Oversight, <https://www.americanoversight.org/states>; see, e.g., *State Government Contacts with Voting-Restriction Activists*, American Oversight, <https://www.americanoversight.org/investigation/state-government-contacts-with-voting-restriction-activists>; *Wisconsin Documents Offer Window into Early Uncertainty over COVID-19*, American Oversight, <https://www.americanoversight.org/wisconsin-documents-offer-window-into-early-uncertainty-over-covid-19>.

⁵ *Documents*, American Oversight, <https://www.americanoversight.org/documents>.

⁶ American Oversight currently has approximately 15,630 page likes on Facebook and 108,400 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Oct. 14, 2021); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Oct. 14, 2021).

⁷ See *supra*, notes 1 & 3.

transparency and makes the responses agencies provide to public records 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.

American Oversight asks that if its request for a fee waiver is denied in whole or in part, that you contact us prior to incurring any costs.

Guidance Regarding the Search & Processing of Requested Records

Please search all locations and systems likely to have responsive 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 the authority's officer or employee constitutes a record for purposes of Wisconsin's public records laws.⁸

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.⁹ 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 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

⁸ Wisc. Dep't of J., *Wisconsin Public Records Law Compliance Guide*, Oct. 2019, at 3, <https://www.doj.state.wi.us/sites/default/files/office-open-government/Resources/PRL-GUIDE.pdf>.

⁹ Wis. Stat. § 19.36(6).

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 Sarah Colombo at records@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,

/s/ Sarah Colombo
Sarah Colombo
on behalf of
American Oversight