

EXHIBIT H



October 28, 2021

Office of the Secretary and Deputy Secretary
Department of Education
Office of the Executive Secretariat
400 Maryland Avenue, SW, LBJ 7W106A
Washington, DC 20202

**Re: Request Under Freedom of Information Act
(Expedited Processing & Fee Waiver/Limitation Requested)**

To Whom It May Concern:

The American Accountability Foundation makes the following request under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. Specifically, AAF requests copies of the following records relating to Claudia Chavez who is identified as most recently serving as: White House Liaison.

- Copies of emails and text messages (iMessage, SMS messages, Signal message, What's App, or any other similar messaging services), including records from non-governmental email addresses and devices, between Claudia Chavez (to, from, cc, bcc) any of the following individuals:
 1. Amber McReynolds
 2. Laura Williamson
 3. Kristen Lee
 4. Dale Ho
 5. Sophia L. Lakin
 6. William Hughes
 7. Noëlle Porter
 8. Sarah Saadian
 9. Dana Paikowsky
 10. Rob Weiner
 11. Blair Bowie
 12. Virginia Kase
 13. Jonathan M. Smith
 14. Hauwa Ahmed
 15. Mike Sozan
 16. Marc Elias
 17. Allie Rothenberg
 18. Thomas A. Saenz
 19. Aaron Scherb
 20. Wendy R. Weiser
 21. Daniel I. Weiner
 22. Hector Sanchez Barba

23. Xanthe Thomassen
 24. Tiana Epps-Johnson
 25. Whitney May
- Written or email correspondence (including records maintained in non-governmental email accounts) between Claudia Chavez and the individual at the following email address:
 1. Jonathan_Smith@washlaw.org
 - Written or email correspondence (including records maintained in non-governmental email accounts) between Claudia Chavez and individuals at the following domains:
 1. @demos.org
 2. @aclu.org
 3. @nhlp.org
 4. @nlihc.org
 5. @campaignlegalcenter.org
 6. @americanprogress.org
 7. @commoncause.org
 8. @elias.law
 9. @democracydocket.com
 10. @lww.org
 11. @maldef.org
 12. @brennan.law.nyu.edu
 13. @mifamiliavota.org
 14. @voteathome.org
 15. @centerforvoterinformation.org
 16. @techandciviclife.org
 17. @democracy.works
 18. @electioninnovation.org
 19. @aaldef.org
 20. @seiu.org
 21. @nea.org
 22. @lulac.org
 23. @naleo.org
 24. @aflcio.org

The first bullet point of this request includes requests for records relating to correspondence with certain named individuals. It is our expectation that the agency would search for the individual across multiple communication platforms such as email, text messaging, iMessage, and other forms of communication where a narrow definition such as an email address would not encompass all official correspondence with the individual by the agency staff person.

Please search for responsive records from January 20, 2021 through the date the search is conducted.

Records maintained in non-governmental email accounts and devices are still subject to FOIA. As the Congressional Research Service has noted when discussing CEI vs. OSTP, 92 F. Supp. 3d 228, 232-34 (D.C.C. 2015) "The D.C. Circuit's decision in Competitive Enterprise Institute, therefore, stands for the

proposition that agency records are subject to FOIA even if contained in nongovernmental electronic accounts....”¹

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position any portion of the requested records is exempt from disclosure, AAF requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). 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. See *Mead Data Central v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

FEE WAIVER

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$50. In accordance with 5 U.S.C 552(a)(4)(A)(iii), American Accountability Foundation also requests a waiver of all fees because the disclosure of the requested information is in the public interest and would contribute significantly to the public’s understanding of the decision making at the Department of Justice and who the Attorney General meets from outside the organization, how they coordinate with Department of Justice leadership, and what influence they may have on the actions and policies as a direct result of their interactions. Much as the ethics offices conduct investigations, it is vital that the public through journalists and watchdog groups be enabled to conduct similar investigations.

5 U.S.C 552(a)(4)(A)(iii):

(iii) Documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

The American Accountability Foundation (AAF) is a charitable and educational organization recognized by the Internal Revenue Service under section 501(c)3 of the Internal Revenue Code that conducts non-partisan research and fact-checking so Americans can hold their public leaders accountable. AAF is staffed by experienced researchers and public affairs officials who would analyze and disseminate the information. Further, AAF qualifies as a “representative of the news media” and utilizes the websites its own websites AmericanAccountabilityFoundation.com and BidenNoms.com to publicly distribute the original research stemming from the documents requested free of charge. Additionally, AAF maintains

¹ See <https://crsreports.congress.gov/product/pdf/R/R46238>

close relationships with reporters and policy makers who would amplify the findings associated with the requested documents.

For these reasons stated above, AAF satisfies the criteria for a fee waiver.

EXPEDITED PROCESS

The AAF requests expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E) based on a “compelling need” for these records. As defined by 5 U.S.C. § 552(a)(6)(E)(v)(II), there is an “urgen[t]” need for the information requested because AAF is primarily engaged in disseminating information with “urgency to inform the public concerning actual or alleged Federal Government activity.”

(1) AAF is an organization primarily engaged in disseminating information to the public concerning actual or alleged government activity.

The AAF is an organization primarily engaged in disseminating information in order to bring transparency regarding actual or alleged government activity directly to the public. It is critical to the mission of the AAF and for transparency regarding government activities to obtain information, scrutinize the information, and widely publish that information for the public consumption. The information obtained about government activity is directly published on our websites americanaccountabilityfoundation.com and bidennoms.com, and widely disseminated through social media platforms.

Additionally, the AAF publishes its findings and original analysis on its blogs <https://www.bidennoms.com/news> and <https://www.americanaccountabilityfoundation.com/blog>. Examples of posts include an original report on donations to the Republican Governors Association, an investigation into no-bid contracts given to political cronies at DHS, and alleged insider trading allegation involving Biden Administration nominee.² The AAF also directly disseminates findings obtained through FOIA requests with the press through press releases and through interviews with print, digital, and tv news outlets.³ This is an ongoing effort to provide timely, educational resources to the American public on the activities of government officials.⁴

² See the following links for blog posts cited as well as other content:

<https://www.americanaccountabilityfoundation.com/post/woke-capitalism-on-full-display-at-the-republican-governors-association>; <https://www.americanaccountabilityfoundation.com/post/american-accountability-foundation-sends-investigative-findings-on-endeavors-to-dhs-ig>; <https://www.bidennoms.com/news/912/james-kvaal-insider-trading-allegations>;

³ See FOIA request for disciplinary records of ATF nominee David Chipman:

<https://dailycaller.com/2021/06/22/american-accountability-foundation-david-chipman/>

⁴ The following links are a small, non-comprehensive list to illustrate how the AAF disseminates information to the public via other national news outlets:

<https://www.nbcnews.com/politics/politics-news/conservative-group-files-ethics-complaint-against-aoc-attending-met-gala-n1279308>

<https://nypost.com/2021/09/30/biden-reportedly-nominated-daughter-of-political-ally-clyburn-to-post/>

<https://www.foxbusiness.com/politics/biden-raises-eyebrows-donors-company-official-visit>

<https://www.newsweek.com/civilian-climate-corps-trojan-horse-radical-left-opinion-1632402>

<https://www.thedailybeast.com/the-nra-is-bankrupt-but-it-still-owns-americas-gun-agency>

<https://news.yahoo.com/conservative-group-behind-sunk-atf-003022173.html>

(2) *The records requested are urgently needed to disseminate information to the public on actual or alleged government activity.*

These records are urgently needed to inform the public about actual or alleged government activity. Specifically, requested records relating to the past and ongoing activity of the Department of Justice on election related items including, but not limited to, activities to protect the integrity of elections, voting rights, early voting, vote by mail, access to voting, and the right of eligible voters to vote. As mentioned in August 2021, Attorney General Garland expressed the urgency to act “on relatively short notice” to ensure we have safe elections in the United States.⁵ Additional measures taken by the Department of Justice in June 2021 also reveal their actions to “protect civil rights” through ongoing review of post-election audits when they stated, “We are scrutinizing new laws that seek to curb voter access, and where we see violations, we will not hesitate to act” indicating that decisions are made in real time as the need arises.⁶ Audits in several states, including Arizona and Wisconsin, maintain strict review periods that require the need for public access to information of activities undertaken by the Department of Justice while election audit and post-audit activities occur.⁷

28 C.F.R. § 16.5(e) expanded expedited processing to include requests for records involving the loss of substantial due process rights or matters of widespread and exceptional media interest in which there exist possible questions about the government’s integrity that affect public confidence. Election administration and voting access necessarily implicates due process rights. See *Griffin v. Burns*, 570 F.2d 1065 (1st Cir. 1978); *Roe v. Alabama*, 68 F.3d 404 (11th Cir. 1995).

Trust in our Republic and its democratic election processes are of enormous public concern and require immediate dissemination of accurate information to the public on what the activities of their government leaders. As Attorney General Garland stated, “...there has been a dramatic rise in legislative efforts that will make it harder for millions of citizens to cast a vote that counts. So far this year, at least fourteen states have passed new laws that make it harder to vote. And some jurisdictions, based on disinformation, have utilized abnormal post-election audit methodologies that may put the integrity of the voting process at risk and undermine public confidence in our democracy.”⁸ Watchdog groups like

<https://thehill.com/homenews/house/544623-conservative-group-escalates-earmarks-war-by-infiltrating-trainings>

<https://spectrumnews1.com/ca/la-west/human-interest/2021/07/22/speaker-pelosi-s--1-million-request-for-the-courage-museum-heads-to-house-floor>

<https://www.buzzfeednews.com/article/zahrahirji/carlton-waterhouse-epa-tom-cotton-racism>

<https://www.foxnews.com/politics/biden-doj-kristen-clarke-conference-cop-killers>

⁵ Garland, M., 2021. *Attorney General Merrick B. Garland Delivers Remarks at Justice Department Leadership Meeting with State and Local Election Officials on Threats to Election Workers*. [online] Justice.gov. Available at: <<https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-justice-department-leadership-meeting>> [Accessed 22 October 2021].

⁶ Garland, M., 2021. *Attorney General Merrick B. Garland Delivered a Policy Address Regarding Voting Rights*. [online] Justice.gov. Available at: <<https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivered-policy-address-regarding-voting-rights>> [Accessed 22 October 2021].

⁷ Axelrod, T., 2021. *Wisconsin House speaker signs subpoenas in election audit*. [online] TheHill. Available at: <<https://thehill.com/homenews/state-watch/574937-wisconsin-house-speaker-signs-subpoenas-in-election-audit>> [Accessed 22 October 2021].

⁸ Garland, M., 2021. *Attorney General Merrick B. Garland Delivered a Policy Address Regarding Voting Rights*. [online] Justice.gov. Available at: <<https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivered-policy-address-regarding-voting-rights>> [Accessed 22 October 2021].

the AAF facilitate as their primary mission the dissemination of information and unique analysis on government activities that help promote public confidence in the democratic process.

Obtaining information from this request on communications and coordination from government officials and outside entities regarding ongoing election related items (specifically during election cycles and during election integrity initiatives such as audits) and disseminating to the public before election items expire meets the need for “urgency” as defined by statute and regulations.

* * * *

Please provide all responsive documents as attachments to emails to the address records@americanaccountabilityfoundation.com. For electronic records please provide them in their original electronic format and for paper documents, please provide them as PDF attachments to the email. If document sizes will exceed the capacity of email attachments, please email me and I will provide a location for uploading documents or will provide storage media to share the documents.

Thank you for your prompt attention to this matter.

Respectfully,

A handwritten signature in blue ink, appearing to read "Matthew A. Buckham".

Matthew A. Buckham
Founder, American Accountability
Foundation

Thomas Jones
Founder, American Accountability
Foundation