

EXHIBIT 1

The Oversight Project



SENT VIA EMAIL: FOIA.gov

April 23, 2024

Chief, Freedom of Information/Privacy Acts Office
U.S. Small Business Administration
409 Third St. SW, 8th Floor
Washington, D.C. 20416

Re: Records Related to Voter Registration Agreement with Michigan
Department of State

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the implementing FOIA regulations of the Small Business Administration (“SBA” or “The Administration”), 13 C.F.R. § 102.1 *et seq*, I respectfully request the following records:

1. All Memoranda of Understanding (“MOU”) entered into by the Administration with the Michigan Department of State related to Executive Order 14019¹;
2. All records relating to the implementation of MOU(s) entered into by the Administration with the Michigan Department of State pursuant to Executive Order 14019;
3. Documents sufficient to show the locations of in-person voter registration events conducted pursuant to the MOU; and
4. All communications between employees of the Administration and the Michigan Department of State that includes the following search terms:
 - a. “14019”;
 - b. “Executive Order”;
 - c. “EO”;
 - d. “Promoting Access to Voting”;

¹ The Administration announced agreement on at least one such MOU on March 19, 2024. The Michigan Department of State announced the same agreement on March 20, 2024. See App. A.

The Oversight Project



- e. "Regist#";²
- f. "Vote";
- g. "Voting";
- h. "Voter";
- i. "Voted";
- j. "Voters";
- k. "Ballot"; OR

The time period for this request is May 11 March, 2023 to the present.

To further narrow down the scope of the request, requester does not seek correspondence that merely forwards press clippings, such as news accounts or opinion pieces, newsletters, and published or docketed materials, if that correspondence has no comment or no substantive comment added by any party in the thread.

The terms "pertaining to," "referring," "relating," or "concerning" with respect to any given subject means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

The term "record" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (emails), MMS or SMS text messages, instant messages, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), contracts, cables, telexes, notations of any type of conversation, telephone call, voicemail, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and

² Regist# denotes a root expander for all forms of the word "register" to include but not limited to register, registered, registration, etc.

The Oversight Project



amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electronic records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A record bearing any notation not a part of the original text is to be considered a separate record. A draft or non-identical copy is a separate record within the meaning of this term. By definition a “communication” (as that term is defined herein) is also a “record” if the means of communication is any written, recorded, or graphic matter of any sort whatsoever, regardless of how recorded, and whether original or copy.

The terms “and” and “or” should be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The terms “all,” “any,” and “each” should each be construed as 'encompassing any and all. The singular includes the plural number, and vice versa. The present tense includes the past and vice versa. The masculine includes the feminine and neuter genders.

The term “communication” means each manner or means of disclosure or exchange of information (in the form of facts, ideas, inquiries, or otherwise), regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, e-mail (desktop or mobile device), text message, MMS or SMS message, messaging systems (such as iMessage, Microsoft Teams, WhatsApp, Telegram, Signal, Google Chat, Twitter direct messages, Lync, Slack, and Facebook Messenger), regular mail, telexes, releases, or otherwise.

“Communications with,” “communications from,” and “communications between” means any communication involving the related parties, regardless of whether other persons were involved in the communication, and includes, but is not limited to, communications where one party is cc'd or bcc'd, both parties are cc'd or bcc'd, or some combination thereof.

Please consider all members of a document “family” to be responsive to the request if any single “member” of that “family” is responsive, regardless of whether the “family member” in question is “parent” or “child.”

The Oversight Project



In the interest of expediency and to minimize the research and/or duplication burden on your staff, please send records electronically if possible. If this is not possible, please notify me before sending to the mailing address listed below. If access to this request will take longer than twenty business days, please let me know when I might receive records or be able to inspect the requested records. Please produce responsive documents as soon as they become available. In all cases, please communicate with me at the below email address.

Please comply fully with 5 U.S.C. § 552(b). Accordingly, without limitation to the foregoing, if any portion of this request is denied for any reason, please provide written notice of the records or portions of records that are being withheld and cite each specific exemption of the Freedom of Information Act on which the agency relies. Moreover, to the extent that responsive records may be withheld in part produce all reasonably segregable portions of those records. Additionally, please provide all responsive documents even if they are redacted in full.

Fee Waiver Request

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) nonprofit, Heritage Foundation does not have a commercial purpose and the release of the information requested is not in Heritage Foundation's commercial interest. Heritage Foundation's mission is to formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense. Heritage Foundation uses the information requested and analyzes it in order to educate the public through social media,³ broadcast media⁴ (traditional and nontraditional) and press releases.⁵ The requested information is in the public interest because there has been substantial press coverage and scrutiny concerning the use of federal funds to register voters as well as the

³ Heritage Foundation on X. [@ Heritage] (Accessed: 2024, April 22). 693.5K followers. <https://twitter.com/Heritage>

⁴ Fox News. (Accessed: 2023, October 16). Heritage Foundation launches Conservative Oversight Project aimed at 'exposing' Biden admin, leftist policies. <https://www.foxnews.com/politics/heritage-conservative-oversight-project-biden-admin-leftist-policies>

⁵ Heritage Foundation. (Accessed: 2023, October 16). Press. <https://www.heritage.org/press>.

The Oversight Project



sweeping range of Executive Order 14019, which places voter registration duties on agencies that are not typically involved in voter registration.

Because this is a request by a member of the news media for information of public interest, made in my capacity as an author for the Daily Signal⁶ (a major news outlet⁷), I actively gather information of potential interest to our Daily Signal audience, and I use my editorial skills to turn raw materials into a distinct work, and I distribute that work to our Daily Signal audience through podcasts⁸ or articles. I also post our distinct work on our Oversight Project social media page.⁹ By function, the Oversight Project is primarily engaged in disseminating information to the public. Staff members for the Oversight Project regularly appear in television, radio, print, and other forms of media to provide expert commentary on salient issues in the national debate. I request that you waive all applicable fees associated with this request.

If you deny this request for a fee waiver, please advise me in advance of the estimated charges if they are to exceed \$50. Please send me a detailed and itemized explanation of those charges.

Request for Expedited Processing

Pursuant to 13 C.F.R. § 102.5(e)(1)(iv), I request expedited processing for this request. I certify the following statement of facts in support of expedited processing to be true and correct pursuant to 13 C.F.R. § 102.5(e)(3).

Background:

On March 19, 2024, Administrator Guzman announced a “first-of-its-kind” collaboration with the Michigan Department of State to “promote civic engagement and voter registration in Michigan” that was memorialized in a Memorandum of Understanding.¹⁰ On April 4, 2024, members of the Committee on Small Business wrote to Administrator Guzman requesting a copy of the MOU

⁶ Daily Signal. (Accessed: 2023, October 16). Mike Howell.

<https://www.dailysignal.com/author/mike-howell/>

⁷ Daily Signal on X. [@DailySignal] (Accessed: 2024, April 22). 86.7K Followers.

<https://twitter.com/DailySignal>

⁸ Apple. (Accessed: 2023, October 16). The Daily Signal Podcast.

<https://podcasts.apple.com/us/podcast/the-daily-signal-podcast/id1313611947>

⁹ Oversight Project on X. [@OversightPR] (Accessed: 2024, April 22). 20.6K Followers.

<https://twitter.com/oversightpr>

¹⁰ Appendix A at 002.

The Oversight Project



as well as internal communications of SBA employees regarding, implementation plans, and documents detailing the prior SBA activity in voter registration as well as a staff briefing.¹¹

The Administration's role in voter registration and obligations under the MOU are matters of significant public interest.

The following factual Appendices are attached and expressly incorporated herein and made part of this request (as are the factual sources cited therein):

- Appendix A contains copies of the press releases by SBA (dated March 19, 2024) and Michigan Secretary of State (dated March 20, 2024) the Memorandum of Understanding.¹²
- Appendix B is a copy of the April 4, 2024 letter from House Small Business Committee Chairman Roger Williams, and Representatives Blaine Luetkemeyer, Pete Stauber, and Dan Meuser to Administrator Isabella Casillas Guzman.¹³
- Appendix C is a compilation of news articles about the Memorandum of Understanding.¹⁴

Expedited Processing is Warranted under 13 C.F.R. § 102.5(e)(1)(iv)

1. This provision provides that expedited processing shall be granted regarding: "A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affect public confidence."

Courts have held that the DOJ Regulation, which mirrors the SBA Regulation, requires the requester to show: (1) that the request involves a "matter of widespread and exceptional media interest" (28 C.F.R. § 16.5(e)(1)(iv)); and (2) that the matter is one "in which there exists possible questions about the integrity of the government that affect public confidence" (*id.*). See *Edmonds v. FBI*, No. 02-cv-1294 (ESH), 2002 WL 32539613, *3 (D.D.C. Dec. 3, 2002). It is not necessary to show "prejudice or a matter of current exigency to the American public." *Id.*

¹¹ Appendix B at 002–3.

¹² Available at oversight.heritage.org/Michigan_SBA_Appendices_A-C.pdf.

¹³ *Id.*

¹⁴ *Id.*

The Oversight Project



First, the DOJ Regulation requires showing that the matter about which questions of integrity have been raised is the subject of widespread national media attention. *See Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 507–508 (D.D.C. 2018) (denying motion for expedited processing because general media interest in Solicitor General’s nomination is insufficient to show media interest in possible ethics questions concerning the nomination). There need not be a showing that the disclosure would shed considerable light on agency operations; only that there is “exceptional” and “widespread” media interest. *See CREW v. DOJ*, 870 F.Supp.2d 70, 81 (D.D.C. 2012), *rev’d on other grounds*, 746 F.3d 1082 (D.C. Cir. 2014). While the media interest need be “widespread” and “exceptional” it need not be overwhelming. *See ACLU v. DOJ*, 321 F.Supp.2d 24, 31–32 (D.D.C. 2004) (rejecting DOJ’s position that requester’s citation to what the court described as “only a handful of articles” was insufficient to show “widespread and exceptional media interest” because those articles “were published in a variety of publications and repeatedly reference the ongoing national discussion about the Patriot Act and Section 215” (second quotation added)); *Edmonds v. FBI*, No. CIV A. 02-1294 (ESH), 2002 WL 32539613, at *3 (D.D.C. Dec. 3, 2002) (numerous national newspaper and network television broadcasts concerning whistleblower’s allegations of security lapses in FBI translator program met test).

Second, the DOJ Regulation requires showing that “there exists possible questions about the government’s integrity that affect public confidence.” *CREW v. DOJ*, 436 F.Supp.3d 354, 361 (D.D.C. 2020) (quoting 28 C.F.R. § 16.5(e)(1)(4)) (emphasis by Court). It does not “require the requester to prove wrongdoing by the government in order to obtain documents on an expedited basis.” *Id.* at 362. “The primary way to determine whether such possible questions exist is by examining the state of public coverage of the matter at issue, and whether that coverage surfaces possible ethics issues so potentially significant as to reduce public confidence in governmental institutions.” *Am. Oversight v. DOJ*, 292 F.Supp.3d 501, 508 (D.D.C. 2018). This is not an extraordinarily high bar. *See, e.g., CREW*, 436 F.Supp.3d at 361 (complaint sufficient to survive a motion to dismiss where it alleged Attorney General’s action regarding disclosure of Mueller Report “supported an inference that at best, the Attorney General undertook to frame the public discussion on his own terms, and at worst that he distorted the truth”); *ACLU v. DOJ*, 321 F.Supp.2d 24, 32 (D.D.C. 2004) (allegations in press that Section 215 of the Patriot Act may be unconstitutional and reports that Members of Congress have alleged abuses of Section 215 “implicate[] government integrity” and hence are sufficient to meet test); *Edmonds*, 2002 WL 32539613, at *3–4 (test met where plaintiff alleged security lapses in FBI translators program,

The Oversight Project



national news covered the issue, and two Senators expressed concern regarding “the significant security issues raised by plaintiff’s allegations and the integrity of the FBI”).

2. The facts amply support expedition here. Two national media outlets have published articles regarding the MOU. *See generally* App. C. Both media and Congress have questioned whether the MOU is an appropriate use of the SBA’s resources.

There is more than enough evidence to sustain a finding of “possible questions about the government’s integrity that affect public confidence”. Again, this bar is not a very high bar. Questions have been raised over the appropriateness of the SBA using taxpayer resources to conduct voter registration in a state with above-average voter registration. *See* App. C at 001–005. The information is of immense public and Congressional interest. Expedition is warranted.

Thank you in advance for considering my request. If you have any questions, or feel you need clarification of this request please contact me at oversightproject@heritage.org.

Sincerely, *Michael Howell*

Mike Howell
Director and Investigative Columnist
at The Daily Signal
The Heritage Foundation
214 Massachusetts Ave, NE
Washington, D.C. 20002



Subscribed and sworn before me this 22nd day of April, 2024.

Mary-Grace Byers
Notary Public

District of Columbia
Signed and sworn to (or affirmed) before me
on 4/23/24 by Mike Howell
Date Name(s) of Individual(s) making Statement
Mary-Grace Byers
Signature of Notarial Officer

Mary-Grace Byers - Notary Public, District of Columbia
My commission expires March 14, 2029