

EXHIBIT A



August 19, 2019

VIA EMAIL

Jill A. Eggleston
FOIA Public Liaison
U.S. Citizenship and Immigration Services
National Records Center, FOIA/PA Office
P.O. Box 648010
Lee's Summit, MO 64064-8010
uscis.foia@uscis.dhs.gov

Re: Request for Expedition of FOIA Requests

Dear Ms. Eggleston:

On July 18, 2019, and August 1, 2019, American Oversight submitted two FOIA requests to this office seeking information relating to Acting Director Ken Cuccinelli. The requested records generally relate to Acting Director Cuccinelli's calendars, external communications, and expenses.

In light of recent developments—namely, Acting Director Cuccinelli's actions and statements in his short tenure as acting director—we now request that U.S. Citizenship and Immigration Services (USCIS) grant expedited processing of these two requests.

I certify to be true and correct, to the best of my knowledge and belief, that there is an urgent need to inform the public about the federal government activity and significant changes undertaken by the individual who is the subject of these requests.¹ The information American Oversight seeks concerns "a matter of a current exigency to the American public."² President Trump appointed Mr.

¹ See, e.g., Hamed Aleaziz, *The Trump Administration Is Ending an Immigration Benefit for Filipino Veterans and Haitians*, BUZZFEED NEWS (Aug. 2, 2019, 1:53 PM), <https://www.buzzfeednews.com/article/hamedaleaziz/trump-ending-immigration-green-card-benefit-filipino>; Hamed Aleaziz, *Immigrant Asylum-Seekers May Get Less Time to Prepare Their Cases Under a New Trump Administration Rule*, BUZZFEED NEWS (July 9, 2019, 2:51 PM), <https://www.buzzfeednews.com/article/hamedaleaziz/immigrant-asylum-seekers-less-time-to-prepare>; Hamed Aleaziz, *A Top Immigration Official Appears to Be Warning Asylum Officers About Border Screenings*, BUZZFEED NEWS (June 18, 2019, 11:58 AM), <https://www.buzzfeednews.com/article/hamedaleaziz/uscis-director-asylum-officers-email>.

² *Al-Fayed v. Cent. Intelligence Agency*, 254 F.3d 300, 310 (D.C. Cir. 2001) (quoting H.R. Rep. No. 104-795, at 26 (1996), reprinted in 1996 U.S.C.C.A.N. 3448, 3469).



Cuccinelli as acting director of USCIS in June 2019.³ Since that time, Acting Director Cuccinelli has made substantial and controversial changes to USCIS policies and operations, including asking USCIS staffers to volunteer to help U.S. Immigration and Customs Enforcement (ICE) implement a new program that keeps asylum-seekers in Mexico,⁴ and introducing a new rule that will allow the Trump administration to deny permanent residency to immigrants who use or are likely to use welfare benefits.⁵ Acting Director Cuccinelli has additionally signaled that the public should expect further significant changes to USCIS policies and operations.⁶ These recent developments, especially the introduction of the “public charge” rule, have increased the need for expedited processing and the urgency of American Oversight’s requests.⁷ The American public has a substantial and important interest in understanding the activities of such an influential and controversial acting director as he continues to make significant changes, including by understanding all potential ethics concerns related to the acting director. There is an urgent need for disclosure of records showing whether and to what extent any private individuals or entities exert influence over the acting director’s decisions, as well as how he is spending his time and taxpayer resources. The Trump administration’s immigration policy is a matter of significant public debate,⁸ and ensuring that citizens are able to participate in a public debate in an informed manner was one of Congress’s central purposes in enacting FOIA. *See NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978) (“The basic purpose of [the] FOIA is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed.”). It is imperative that the public have access to the records that American Oversight seeks so that discussion around the nation’s immigration policy and operations, especially as they concern USCIS, may proceed on a fully-informed basis.

³ See Julia Ainsley & Jonathan Allen, *Trump Taps Conservative Ken Cuccinelli to Head Citizenship Agency*, NBC NEWS (June 10, 2019, 1:11 PM), <https://www.nbcnews.com/politics/immigration/trump-taps-conservative-ken-cuccinelli-head-citizenship-agency-n1015801>.

⁴ Hamed Aleaziz, *Civil Servants Who Process Immigration Applications Are Being Asked to Help ICE Instead*, BUZZFEED NEWS (July 17, 2019, 2:30 PM), <https://www.buzzfeednews.com/article/hamedaleaziz/uscis-immigration-applications-backlog-ice>.

⁵ Hamed Aleaziz, *A New Trump Policy Could Deny Green Cards to Immigrants Who Use Public Benefits*, BUZZFEED NEWS (Aug. 12, 2019, 8:54 AM), <https://www.buzzfeednews.com/article/hamedaleaziz/trump-policy-green-cards-food-stamps>.

⁶ Ken Cuccinelli (@USCISCuccinelli), TWITTER (Aug 14, 2019, 3:39 PM), <https://twitter.com/USCISCuccinelli/status/1161723956077957120>.

⁷ See, e.g., Emily Rappleye, *Public Charge Rule Faces 4 Lawsuits*, BECKER’S HOSP. REV., Aug. 19, 2019, <https://www.beckershospitalreview.com/legal-regulatory-issues/public-charge-rule-faces-4-lawsuits.html>; Gabrielle Canon, *California Joins Other States to Sue Trump Administration over New Immigration Rule*, USA TODAY (Aug. 16, 2019, 3:40 PM), <https://www.usatoday.com/story/news/politics/2019/08/16/california-action-against-trump-administration-immigration-public-charge/2029734001/>.

⁸ See, e.g., Michael D. Shear et al., *Trump’s Policy Could Alter the Face of the American Immigrant*, N.Y. TIMES, Aug. 14, 2019, <https://www.nytimes.com/2019/08/14/us/immigration-public-charge-welfare.html>.

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 to satisfy the criteria necessary to qualify for expedition,⁹ 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."¹⁰ 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.¹¹ American Oversight has demonstrated its commitment to the public disclosure of documents and creation of editorial content. For example, after receiving records regarding an ethics waiver received by a senior DOJ attorney,¹² American Oversight promptly posted the records to its website and published an analysis of what the records reflected about DOJ's process for ethics waivers.¹³ As another example, American Oversight has a project called "Audit the Wall," where the organization is gathering and analyzing information and commenting on public releases of information related to the administration's proposed construction of a barrier along the U.S.-Mexico border.¹⁴

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

In order to facilitate expedited review of these FOIA requests, American Oversight remains willing to engage in discussions with your agency regarding narrowing or clarifying its requests, for example, by working to identify with greater specificity offices, components, or custodians most likely to have documents of particular interest to the public. If there are other ways we can be of assistance in narrowing or clarifying the request to receive a response faster, please let us know.

⁹ 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).

¹⁰ *ACLU*, 321 F. Supp. 2d at 29 n.5 (quoting *EPIC*, 241 F. Supp. 2d at 11).

¹¹ American Oversight currently has approximately 12,250 page likes on Facebook and 54,400 followers on Twitter. American Oversight, FACEBOOK, <https://www.facebook.com/weareoversight/> (last visited Aug. 19, 2019); American Oversight (@weareoversight), TWITTER, <https://twitter.com/weareoversight> (last visited Aug. 19, 2019).

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>.

¹³ *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>.

¹⁴ *Audit the Wall*, AMERICAN OVERSIGHT, <https://www.americanoversight.org/investigation/audit-the-wall>.

Conclusion

We appreciate your attention to this request. If you have any questions or need additional clarification, please contact Hart Wood at foia@americanoversight.org or 202.873.1743.

Sincerely,

A handwritten signature in blue ink that reads "Austin R. Evers". The signature is fluid and cursive, with a long horizontal line extending to the left.

Austin R. Evers
Executive Director
American Oversight