



May 13, 2022

**VIA FOIA ONLINE**

Freedom of Information Act Request  
Department of the Interior  
Office of the Secretary  
1849 C Street, NW  
Washington, DC 20240

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

I write on behalf of Americans for Prosperity Foundation (“AFPF”), a 501(c)(3) nonpartisan organization dedicated to educating and training Americans to be courageous advocates for the ideas, principles, and policies of a free and open society.<sup>1</sup>

AFPF is investigating the Department of the Interior’s (“Interior”) decision to cancel lease sales in the Gulf of Mexico and Alaska’s Cook Inlet.<sup>2</sup> Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, AFPF hereby requests the following records:<sup>3</sup>

1. All records memorializing the decision to cancel lease sales in the Gulf of Mexico and Alaska’s Cook Inlet including, but not limited to, memoranda, supporting studies, or data sets.
2. All internal and external communications (e-mail, text, instant messaging, etc.) sent to or by the following Interior employees, including through any alias accounts, regarding the cancellation of lease sales in Alaska and the Gulf of Mexico:
  - a. Secretary Deb Haaland
  - b. Chief of Staff Rachael Taylor
  - c. Deputy Chief of Staff – Policy Kate Kelly
  - d. Director of Communications Melissa Schwartz
  - e. Senior Advisor for Alaska Affairs and Strategic Priorities Raina Thiele
  - f. Senior Counselor to the Secretary Elizabeth (Liz) Klein

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<sup>1</sup> See AMS. FOR PROSPERITY FOUND., [www.americansforprosperityfoundation.org](http://www.americansforprosperityfoundation.org) (last visited May 13, 2022).

<sup>2</sup> Breanne Deppisch, *Interior cancels oil and gas lease sales in Alaska and Gulf of Mexico*, WASH. EXAM’R, (May 12, 2022), <https://www.washingtonexaminer.com/restoring-america/courage-strength-optimism/interior-cancels-oil-and-gas-lease-sales-in-alaska-and-gulf-of-mexico>.

<sup>3</sup> For purposes of this request, the term “record” means any medium of information storage in the form and format maintained by the agency at the time of the request. If any portion of a “record,” so defined, is responsive to AFPF’s request, then the agency should process and disclose the record in its entirety. If the agency considers a medium of information storage to contain multiple records that it believes can be segmented on the basis of the subject-matter or scope of AFPF’s request, AFPF explicitly seeks access to those separate “records” as well. They should not be treated as “non-responsive.”

- g. White House Liaison Maggie Thompson
  - h. Bureau of Ocean Energy Management (“BOEM”) Director Amanda Lefton
  - i. BOEM Deputy Director Walter Cruickshank
  - j. BOEM Alaska Regional Director James Kendall
  - k. BOEM Gulf of Mexico Regional Director Michael Celata
3. All internal and external communications (e-mail, text, instant messaging, etc.) sent to or by the Interior employees identified in Item 2, including through any alias accounts, regarding Interior’s development of a new five-year offshore drilling plan.<sup>4</sup>
4. All communications (e-mail, text, instant messaging, etc.) between the Interior employees identified in Item 2, including through any alias accounts, with the White House, including but not limited to members of the White House Office of Domestic Climate Policy (Climate Policy Office), National Climate Advisor Gina McCarthy, and Deputy National Climate Advisor Ali Zaidi regarding the cancellation of lease sales in Alaska and the Gulf of Mexico.

For the purposes of this request, please omit daily news clippings or other mass mailings unless there is commentary related to them. For all items of this request, if the agency uncovers responsive e-mail records, AFPP’s request specifically seeks the entirety of any e-mail chain, any portion of which contains an individual e-mail message responsive to this request, *i.e.*, the entire e-mail chain is responsive to this request. If the agency identifies responsive records it deems outside its legal control (*e.g.*, congressional records), AFPP requests the agency inform AFPP that such records exist.

**Request for a Public Interest Fee Waiver**

AFPP requests a waiver of any and all applicable fees. The FOIA and applicable regulations provide that the agency shall furnish requested records without or at reduced charge 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.”<sup>5</sup>

In this case, the requested records unquestionably shed light on the “operations or activities of the government” as they relate to Interior’s decision to cancel oil and gas lease sales and potentially delay the legally required development of a new five-year offshore drilling plan, while inflation and gas prices are rising at alarming rates.

AFPP intends to educate the public with the results of this FOIA request. It has the intent and ability to make those results available to a reasonably broad public audience through various media. Its staff has significant experience and relevant expertise; AFPP professionals will analyze responsive records, if any, use their editorial skills to turn raw materials into a distinct work, and share the resulting analysis with the public. AFPP is a

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> 5 U.S.C. § 552(a)(4)(A)(iii); *see also Cause of Action v. Fed. Trade Comm’n*, 799 F.3d 1108, 1115–19 (D.C. Cir. 2015) (discussing proper application of public-interest fee waiver test).

non-profit organization as defined under Section 501(c)(3) of the Internal Revenue Code, and it has no commercial interest in making this request.

### **Request to Be Classified as a Representative of the News Media**

In addition to a public interest fee waiver, AFPF requests that it be classified as a “representative of the news media” for fee purposes.<sup>6</sup> As the D.C. Circuit has explained, the “representative of the news media” test is properly focused on the requestor, not the specific FOIA request at issue.<sup>7</sup> AFPF satisfies this test because it gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience. Although not required, AFPF gathers the news it publishes from a variety of sources. It does not merely make raw information available to the public, but distributes distinct work product, including press releases, blog posts, reports, and other informative materials.<sup>8</sup> These distinct works are distributed to the public through various online outlets, such as websites, Twitter, and Facebook. The statutory definition of a “representative of the news media” contemplates that organizations such as AFPF, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”<sup>9</sup>

### **Record Production and Contact Information**

To facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If a certain portion of responsive records can be produced more readily, AFPF requests that those records be produced first, and the remaining records be produced on a rolling basis as circumstances permit. If you have any questions about this request, please contact me at [KSchmidt@afphq.org](mailto:KSchmidt@afphq.org). Thank you for your attention to this matter.

*Kevin Schmidt*

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KEVIN SCHMIDT  
DIRECTOR OF INVESTIGATIONS, AFPF

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<sup>6</sup> 38 U.S.C. § 1.561(b)(7).

<sup>7</sup> See *Cause of Action*, 799 F.3d at 1121.

<sup>8</sup> See, e.g., *More evidence the VA is improperly delaying or denying community care to eligible veterans*, AMS. FOR PROSPERITY FOUND. (Jan. 28, 2022), available at <https://bit.ly/37mDnlX>; *AFP Foundation gets CMS to release state-level Medicaid improper payment data after years of stonewalling*, AMS. FOR PROSPERITY FOUND. (Jan. 20, 2022), available at <https://bit.ly/34sz7A2>; *Permission to Care: How Certificate of Need Laws Harm Patients and Stifle Healthcare Innovation*, AMS. FOR PROSPERITY FOUND. (Oct. 2021), available at <http://afpf.org/conreport>; *Records confirm VA’s use of inaccurate wait time numbers*, AMS. FOR PROSPERITY FOUND. (Oct. 1, 2021), available at <https://bit.ly/3a9KGeL>; *Government documents reveal Export-Import Bank fails to protect taxpayers ... again*, AMS. FOR PROSPERITY FOUND. (Oct. 30, 2020), available at <https://bit.ly/3hD09Jn>; *Kansas Shut Down Businesses That Were Willing and Able to Comply with Safety Guidelines*, AMS. FOR PROSPERITY FOUND. (July 21, 2020), available at <https://bit.ly/3vbj7eC>; *Gone in an Instant: How Instant Messaging Threatens the Freedom of Information Act* (Mar. 16, 2020), AMS. FOR PROSPERITY FOUND., available at <https://bit.ly/2zQOEKI>.

<sup>9</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II).