

From: Chris Horner <Christopher.Horner@cei.org>

Sent: Wednesday, May 16, 2018 1:28 PM

To: AGO - Info <AGO.Info@vermont.gov>

Subject: REQUEST UNDER THE VERMONT PUBLIC RECORDS ACT



REQUEST UNDER THE VERMONT PUBLIC RECORDS ACT

May 16, 2018

Vermont Attorney General's Office
109 State Street
Montpelier, VT 05609-1001

By Electronic mail: ago.info@vermont.gov

RE: Certain records pertaining to a “Common Interest Agreement”

To Whom it May Concern:

On behalf of the Competitive Enterprise Institute (CEI), a non-profit public policy institute in Washington, DC and pursuant to the Vermont Access to Public Records Act, Vt. Stat. Ann. Title 1, §§ 315-320, please provide us certain described records pertaining to the “Common Interest Agreement” your Office signed on to on April 29, 2016 (see attached signature page), relating to an “informal coalition” of OAGs, according to the recruiting letter also attached, led by your Office and former New York Attorney General Eric Schneiderman.

Please provide us any correspondence, attachment, or instrument by which your Office rescinded, reversed, withdrew or otherwise altered this April 29, 2016 commitment.

Please consider as responsive entire email “threads” containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

In the interests of expediting the search and processing of this Request, CEI is willing to pay fees up to \$100. Please provide an estimate of anticipated costs in the event that fees for processing this Request will exceed \$100. To keep costs and copying to a minimum **please provide copies of all productions to the email used to send this request.** Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs (see discussion, *infra*).

We request records on your system, e.g., its backend logs, and do *not* seek only those records which survive on an employee's own machine or account.

We do not demand your Office produce requested information in any particular form, instead **we request records in their native form, with specific reference to the U.S.**

Securities and Exchange Commission Data Delivery Standards.¹ The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, "Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. ***(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)***" (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information

¹ <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>.



requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your Office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

In the context of our experience with responsive agencies taking the effort to physically print, then (often, poorly) scan *electronic* mail into (typically, non-searchable) PDF files, we note that production of electronic records necessitates no such additional time, effort or other resources, and no photocopying expense. Any such effort as described is most reasonably viewed as an effort to frustrate the requester's use of the public information.

1310 L Street, NW, 7th Floor
Washington, DC 20005
cei.org

202 331 1010 *main*
202 331 0640 *fax*



If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email. We look forward to your timely response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Horner", is written over a faint, light-colored background that looks like a scan of a document or a watermark.

Christopher C. Horner
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202.262.4458

Dated: April 29, 2016

Nicholas F. Persampieri

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STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL
ERIC T. SCHNEIDERMAN



STATE OF VERMONT
OFFICE OF THE ATTORNEY GENERAL
WILLIAM H. SORRELL

March 7, 2016

Hon. Ellen F. Rosenblum
Attorney General
Office of the Attorney General
1162 Court St. NE
Salem, OR 97301-4096

Dear Attorney General Rosenblum:

Over the last several years, we have worked through an informal coalition of Attorneys General in legal actions to help protect our citizens from the adverse consequences of climate change and to promote energy efficiency. From advocating for, and then defending, the Environmental Protection Agency's Clean Power Plan to convincing the U.S. Department of Energy to adopt energy efficiency standards for commercial equipment and lighting, our collaborative work has been an important part of the national effort to ensure the adoption of stronger federal climate and energy policies.

The commitments of the United States and other nations at last year's Paris climate change conference are very significant steps forward, but states must still play a critical role in ensuring that the promises made in Paris become reality. Put simply, while we have accomplished a lot, much more action to stem climate change and expand the availability and usage of renewable energy is needed, and is needed now.

That's why we believe that this is the moment for Attorneys General who share this mission to renew our commitment to a coalition to take concerted action to protect our citizens from the public safety, health, and environmental harms created by climate change.

To that end, we are hosting a one-day meeting at the Office of the New York Attorney General in Manhattan on March 29, 2016. We plan to have a press event with attending Attorneys General to highlight the importance of climate change to the citizens of our states, our work defending the Clean Power Plan (highlighting the brief our coalition states are filing that day) and the formation of an Attorneys General climate change and energy coalition committed to working together to take effective investigative and legal steps to address the risks that climate change poses to all of our citizens. A staff-level meeting with AG attorneys working on these issues will also be convened to discuss ongoing and potential legal actions and to consider mechanisms to support these actions.