

Open Records Policy

This document comprises the Open Records Policy ("Policy") for the Office of the Special Counsel ("Office"), and is immediately effective upon signature of the Special Counsel. This document sets forth internal procedures for best record-keeping practices, with two goals in mind. First, to comply with all applicable Wisconsin state law, especially Wisconsin Stat. §§ 19.31-39. Second, to enable the Office to expeditiously complete its mission for the State of Wisconsin.

This document is not intended to have any binding legal force outside the Office. Rather, it is an internal manual for managerial purposes. For specific questions, please contact the Office, or consult the relevant sections of the Wisconsin Code, or the advisory manual published by the Office of the Attorney General, entitled "Wisconsin Public Records Law Compliance Guide" ("Guide"). A copy of this manual will be made available to all staff of the Office, including contractors.

Definitions

For the purposes of this Policy, the definitions laid out in the Guide are incorporated by reference.

Not all information received, collected, or compiled by the Office qualifies as a "record" under Wisconsin law. The Office, and the person of the Special Counsel, is responsible for establishing effective controls on record retention and production. This Office, and the Special Counsel, take seriously this obligation, as open records are the foundation for effective government in the State.

Policy

All Office staff, including Contractors and the Special Counsel, shall comply with Wisconsin Open Records Law. The Special Counsel is the sole custodian of records, and shall implement oral and written policies to ensure compliance with the law. When noncompliance is brought to the attention of the Special Counsel, he shall take corrective action, up to and including termination for cause of any contractor or employee relationship. The Special Counsel shall be responsible for maintaining and releasing records pursuant to Wisconsin Open Records law.

Open records requests made pursuant to Wisconsin law shall be promptly responded to. Records shall be made available to requestors as soon as practicable.

Compliance with this Policy shall be considered a part of all Contractor work-product, and shall be incorporated into all future contracts.

Personal Use of Devices

The Office makes available work-issue emails and equipment as appropriate. As with other entities of the Wisconsin state government, incidental personal use of work-issue equipment is permissible. Conversely, incidental work use of personal devices is unavoidable, especially among contractors. Staff and contractors of the Office have been instructed to promptly forward all records created by such incidental personal use to the Office, including relevant records created prior to the effective date of this Policy. In consideration for compliance with this provision of the policy all Office Staff, Contractors, and the Special Counsel retain a reasonable expectation of privacy in their personal devices.

Special Note

The investigation conducted by the Office into the election of November 3, 2020 does involve information exempt from Open Records requests for the pendency of the investigation, Wis. Stat. § 19.36. Such information may include confidential business information, trade secrets, personnel records, law enforcement records, and other records otherwise exempt from disclosure.

Upon submission of a "Final Report" to the Assembly, or upon the disestablishment of this Office, this investigation will be considered closed. At that time, all records will be transmitted personally by the Special Counsel to the Assembly. Upon transmission, the Special Counsel will cease to be the designated custodian of record under Wisconsin state law, pursuant to Wis. Stat. § 19.33.

Michael J. Gableman

Wisconsin Special Counsel

Date: _____