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9 Attorneys for Plaintiffs American Transparency
(d/b/a "OpenTheBooks.com") and Adam Andrzejewski

FILED
Superior Court Of California
Sacramento
01/10/2020
hportalanza
By _____, Deputy
Case Number:
34-2020-80003296

11 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SACRAMENTO**

14 AMERICAN TRANSPARENCY, a 501c Public
Charity (d/b/a OPENTHEBOOKS.COM), and
15 ADAM ANDRZEJEWSKI, an individual,

16 Plaintiffs,

17 v.

18 CALIFORNIA STATE CONTROLLER,

19 Defendant.

Case No.

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF AND VERIFIED
PETITION FOR WRIT OF MANDATE**

20 **INTRODUCTION**

21 Plaintiffs AMERICAN TRANSPARENCY (d/b/a "OpenTheBooks.com") and ADAM
22 ANDRZEJEWSKI bring this lawsuit under Article I, Section 3, of the California Constitution, as well as
23 the California Public Records Act ("CPRA"), Cal. Gov't Code § 6250 *et seq.*, to compel Defendant
24 CALIFORNIA STATE CONTROLLER (the "Controller") to disclose various records concerning state
25 spending information, including records reflecting line-by-line vendor payments. Despite repeated
26 attempts to obtain an adequate response from the Controller, Plaintiffs have instead faced at various points
27 delay, silence, obfuscation, and inadequate justification for the agency's refusal to provide a reasoned
28

1 determination and responsive records. Plaintiffs first filed a CPRA request for state checkbook data in
2 2013—over six years ago—but, to date and after repeated requests, the Controller has failed to disclose
3 any relevant records. It is beyond dispute that the public records at issue are subject to disclosure under
4 the CPRA, notwithstanding the Controller’s protests. The situation now requires judicial intervention.

5 According to Plaintiffs’ investigative efforts, California is the *only* state to refuse to produce its
6 line-by-line spending information to government watchdogs and the interested public. The Controller
7 openly admits to paying 49 million bills annually, totaling approximately \$320 billion in payments. *See*
8 *Overview of the State Controller’s Office*, Calif. State Controller Betty T. Yee, available at
9 <http://bit.ly/2MSjTsh>; see also Adam Andrzejewski, *California’s Accounting System Cost Taxpayers \$1.1*
10 *Billion and Still Can’t Produce a State Checkbook*, Forbes, Dec. 12, 2019, <http://bit.ly/39D2nSw>. The
11 Controller nevertheless claims that it cannot meet its obligations under the CPRA to provide copies of the
12 records reflecting its most basic handling of taxpayer dollars.

13 The alleged inability of the Controller to produce the public records sought by Plaintiffs beggars
14 belief. If the Controller cannot effectively manage records of state vendor payments, and maintain those
15 records in a searchable database such that it can provide some minimal level of transparency into its core
16 operations, then it seems it should be impossible for the Controller to meet its other obligations, such as
17 providing auditing services and financial oversight for the entire state apparatus of the fifth largest economy
18 in the world. If the Controller truly cannot track its own use of government monies, then it cannot
19 effectively stop waste, fraud, corruption, and taxpayer abuse.

20 For these reasons, and those set forth below, Plaintiffs respectfully request this Court’s intervention
21 and an award of attorney fees and costs.

22 **JURISDICTION AND VENUE**

23 1. This Court has jurisdiction over the subject matter of this action as it pertains to enforcing Plaintiffs’
24 rights under the CPRA (Cal. Gov’t Code § 6258). This Court has subject-matter jurisdiction over
25 Plaintiffs’ claim for declaratory relief, injunctive relief, and for a writ of mandate by virtue of the provisions
26 of California Code of Civil Procedure sections 1060 and 1085.

27 2. Venue is proper in this Court in that the public records being improperly withheld are situated in
28 Sacramento County. (Cal. Gov’t Code § 6259, Cal. Code Civ. Proc. §§ 393, 394(a).)

1 **PARTIES**

2 3. Plaintiff American Transparency (d/b/a “OpenTheBooks.com”) is a 501(c)(3) public charity.
3 Today, OpenTheBooks.com is the largest private repository of United States public-sector spending. Its
4 mission is to post online all publicly available government spending: “every dime, online, in real time.”
5 To date, OpenTheBooks.com has captured 5 billion government expenditures, including nearly all
6 disclosed federal government spending since 2000, 49 of 50 state checkbooks, and 23 million public
7 employee salary and pension records from 60,000 public bodies across America. In support of its mission,
8 OpenTheBooks.com maintains a unique online database of government spending, which is freely
9 accessible by regular citizens, reporters, academics, and others. Its aggressive transparency, forensic
10 auditing, and oversight reporting has led to the assembly of grand juries, indictments, and successful
11 prosecutions; congressional briefings, hearings, subpoenas, investigations, and legislation; policy change
12 in U.S. government agencies and the White House; and much more. OpenTheBooks.com receives
13 international delegations through its relationship with the U.S. Department of State. Over the last eighteen
14 months, prominent delegations from China, Lebanon, Moldova, and Ukraine have learned about the power
15 of government transparency coupled with the latest in forensic auditing techniques as tools to root out
16 waste, fraud, corruption, and taxpayer abuse. OpenTheBooks.com is an Illinois corporation headquartered
17 and doing business at Burr Ridge, Du Page County, Illinois.

18 4. Plaintiff Adam Andrzejewski (SAY: “ANGIE-EFF-SKI”) is the Chief Executive Officer and
19 Founder of OpenTheBooks.com, the world’s largest private database of government spending. Mr.
20 Andrzejewski is an entrepreneur—before founding OpenTheBooks.com, he co-founded HomePages
21 Directories, a \$20 million publishing company. Mr. Andrzejewski has spoken at Harvard Law School,
22 Georgetown Law School, and the Columbia School of Journalism on the topic of big-data journalism and
23 forensic auditing techniques. As a senior policy contributor at *Forbes*, his 112 published investigations
24 have received over 5.2 million page views. His works have been featured by *The New York Times*, National
25 Public Radio, Good Morning America, ABC World News Tonight, *The Wall Street Journal*, *USA Today*,
26 FOX News, CNN, and many other national media. Mr. Andrzejewski is a resident of Hinsdale, Du Page
27 County, Illinois.

28 5. Defendant California State Controller is the state agency responsible for accountability and

1 disbursement of California’s financial resources. Under the leadership of Controller Betty Yee—the
2 constitutional official serving as chief fiscal officer of California—Defendant, *inter alia*, produces warrants
3 (*i.e.*, checks) and electronic fund transfers from the California State Treasury, audits all funds disbursed or
4 claims presented for payment, processes the civil service payroll, performs statewide accounting and
5 reporting functions, and safeguards lost and forgotten property. The Controller is the legal custodian of
6 and maintains control over the public records at issue in this lawsuit. It has its principal place of business
7 at 300 Capitol Mall, Suite 1850, Sacramento, California 95814. The agency is a resident of Sacramento
8 County, California and it is amenable to service of process through its Legal Office.

9 **FACTUAL ALLEGATIONS**

10 6. The Controller is a “state agency” within the meaning of Cal. Gov’t Code § 6252(f)(1). As such,
11 it is governed by the public disclosure requirements of Article I, Section 3, of the California Constitution
12 and the CPRA.

13 7. Upon information and belief, Richard Chivaro, Chief Counsel, is the responsible authority
14 designated by the Controller to receive and respond on behalf of the agency to requests for public records
15 under the CPRA. Administration of this task is shared with the Controller’s Legal Office.

16 **Plaintiffs’ August 23, 2019 CPRA Request to the California State Controller**

17 8. On August 23, 2019, Plaintiffs submitted a written CPRA request to the Controller seeking several
18 categories of public records. (A true and accurate copy of Plaintiffs’ CPRA request is attached to this
19 Complaint as **Exhibit 1**.) Specifically, Plaintiffs sought the following:

- 20 a. “An electronic copy of all records relating to state spending information, including but not
21 limited to all vendor (transfer of property or services) payee payments, checkbook payment
22 date, warrant payment information, line-by-line vendor payments, batched claim reports,
23 and batched claim depository data.”
- 24 b. “Any current or past iteration of a compendium, collection, software package tool, or report
25 record of all state vendor payment warrants with *all available fields*, including but not
26 limited to: (i) check date/ACH Date, (ii) payee/vendor name, (iii) payee/vendor address,
27 (iv) check number/ACH code, (v) check amount/ACH account[,], (vi) description of
28 products or services, (vii) organization/agency identifier number, (viii) purpose of payment,

1 (ix) department, agency, and (x) type of payment (i.e., contract, grant, etc.).”

2 c. “To the extent not covered by Items One or Two, records of all vendor payments for
3 California State purchases made and services rendered for the applicable time period[.]”

4 Ex. 1.

5 9. Plaintiffs also noted that their request sought any information “retained, used, and categorized by
6 the [Controller]” not otherwise covered by Items One, Two, and Three, but which still pertains to “claims
7 submitted by state agencies . . . [that provide a] payee name, mailing address, amount, and purpose of
8 payment.” Ex. 1.

9 10. Plaintiffs identified the relevant time period for their request as “January 2018 to the present.” Ex.

10 1. They defined the term “present” as “the date on which the [Controller] begins its search for responsive
11 records.” Ex. 1.

12 11. Plaintiffs sought a waiver of all applicable fees because “disclosure of the [requested] information
13 [would be] in the public interest[.]” Ex. 1; *see* Cal. Gov’t Code § 6253.9(b).

14 12. Upon information and belief, the Controller received Plaintiffs’ CPRA request by certified service
15 on August 27, 2019.

16 13. Despite repeated attempts over the next two months to speak with representatives at the Controller’s
17 Legal Office, Plaintiffs’ counsel was unable to obtain any substantive update on the processing of
18 Plaintiffs’ request.

19 14. By letter, dated October 16, 2019, Plaintiffs, by and through counsel, requested an update on the
20 status of their CPRA request, including an estimated date of completion. (A true and correct copy of the
21 October 16, 2019 letter is attached to this Complaint as **Exhibit 2.**)

22 15. On November 7, 2019, Plaintiffs again requested an update on the processing of their CPRA
23 request. Plaintiffs’ counsel explained that he had made repeated attempts to speak with a responsible
24 official, but to no avail. Plaintiffs asked the Controller to “acknowledge receipt of their letter and provide
25 a written commitment to issuing a determination or production of records within **ten working days.**” (A
26 true and correct copy of the November 7, 2019 letter is attached to this Complaint as **Exhibit 3.**)

27 16. On November 8, 2019, Plaintiffs received a letter from the Controller, dated November 4, 2019,
28 which purported to provide a response to Plaintiffs’ CPRA request. (A true and correct copy of the

1 Controller's correspondence is attached to this Complaint as **Exhibit 4.**)

2 17. In this "reply," the Controller, by and through its Chief Counsel, *supra* ¶ 2, asserted that Plaintiffs'
3 "request is not entirely clear with respect to vendor payments and, as such, the State Controller's Office is
4 unable to comply[.]" Ex. 4. It further alleged that it "does not maintain a centralized vendor contract
5 database which would allow it to identify all contracts regardless of the agency awarding such contract."
6 Ex. 4. Because it "receives literally thousands of claims for payment daily," and those "[c]laims are
7 batched by date received and not segregated, logged, or otherwise tracked by agency, employee or payment
8 type," the Controller argued that it would be "unable to locate or otherwise provide [Plaintiffs] with the
9 document requested." Ex. 4.

10 18. The Controller intimated that, "absent any clarification," it would not "comply" with its
11 constitutional and statutory obligations to continue processing Plaintiffs' CPRA request.

12 19. By letter, dated November 11, 2019, Plaintiffs responded to the Controller's "reply" and provided
13 the requested clarification. (A true and correct copy of the November 11, 2019 letter is attached to this
14 Complaint as **Exhibit 5.**) Plaintiffs noted that the Controller could "administratively treat[] [the letter] as
15 a new request." Ex. 5.

16 20. Among other things, Plaintiffs' clarification letter explained the deficiencies in the Controller's
17 November 8, 2019 "reply," including:

- 18 d. The Controller's unjustified assumption that the scope of Plaintiffs' request "depends on
19 the existence of a 'centralized' vendor-payment-specific database";
- 20 e. The Controller's *implicit* acknowledgement that responsive records exist, including "claim
21 schedules, invoices, and other records [created or obtained] in the course of auditing and
22 paying individual claims";
- 23 f. The Controller's *explicit* acknowledgement that records concerning the replenishing of
24 agency Revolving Fund Accounts exist—records that clearly fall within the scope of
25 Plaintiffs' request; and
- 26 g. The Controller's dubious contention that it "does not retain, or is unable to access, *any*
27 records concerning the payment of vendor contractors," which would render the agency
28 "unable to conduct its own internal audits" or "respond to oversight requests from the

1 Governor or the Legislature.”

2 Ex. 5.

3 21. Plaintiffs requested that the Controller acknowledge receipt of the November 11, 2019 clarification
4 letter and “provide a written determination as to whether non-exempt responsive records are under [its]
5 legal control . . . within **ten working days**.” Ex. 5.

6 22. To date, the Controller has failed to acknowledge or otherwise respond to Plaintiffs’ latest
7 correspondence.

8 23. Upon information and belief, the Controller maintains legal control over records responsive to
9 Plaintiffs’ request and possesses the technological ability to search for, process, and disclose such records
10 in compliance with the California Constitution and the CPRA.

11 **CLAIM FOR RELIEF**

12 **Count One: Violation of the California Constitution and California Public Records Act**

13 24. Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1 through 23.

14 25. The California Constitution protects the “right of access to information concerning the conduct of
15 the people’s business and, therefore, the meetings of public bodies and the writings of public officials shall
16 be open to public scrutiny.” Cal. Const., Art. I, § 3(b)(1).

17 26. Under the CPRA, “access to information concerning the conduct of the people’s business is a
18 fundamental and necessary right.” Cal. Gov’t Code § 6250. To wit, “upon a request for a copy of records
19 that reasonably describes an identifiable record or records,” a state agency “shall make the records
20 promptly available to any person upon payment of fees,” if applicable. *Id.* § 6253(b).

21 27. The CPRA broadly defines the term “person” to include “any natural person, corporation,
22 partnership, limited liability company, firm, or association.” *Id.* § 6252(c). Non-residents and non-citizens
23 of California fall within this definition. *See, e.g., Connell v. Superior Court*, 56 Cal. App 4th 601, 610–12
24 (Cal. Ct. App. 1997).

25 28. The CPRA requires an agency to respond to a valid request within ten (10) days or, in “unusual
26 circumstances,” within twenty-four (24) days. Cal. Gov’t Code § 6253(c); *id.* § 6253(c)(1)–(4).

27 29. More than twenty-four (24) days have passed since the Controller received Plaintiffs’ original
28 CPRA request, dated August 23, 2019.

1 30. More than twenty-four (24) days have passed since the Controller received Plaintiffs' clarification
2 letter, dated November 11, 2019.

3 31. The Controller has failed to take reasonable steps, as required by the CPRA, to "[a]ssist" Plaintiffs
4 in "identify[ing] [responsive] records and information," *id.* § 6253.1(a)(1); "[d]escrib[ing] the information
5 technology and physical location in which" responsive records are likely to "exist," *id.* § 6253.1(a)(2); or,
6 "[p]rovid[ing] suggestions for overcoming any practical basis for denying access to the records . . . sought."
7 *Id.* § 6253.1(a)(3).

8 32. The Controller also has failed to "mak[e] a reasonable effort to elicit additional clarifying
9 information" from Plaintiffs in light of their November 11, 2019 letter. *See id.* § 6253.1(b).

10 33. The Controller has not issued any determination on Plaintiffs' fee waiver request.

11 34. Plaintiffs have exhausted any and all administrative remedies, to the extent required by the CPRA,
12 with respect to the request(s) at issue in this Complaint.

13 35. By refusing to timely comply with the CPRA and provide a reasoned response that denies access
14 to records, applies a valid statutory exemption, or otherwise provides a recognized basis for refusing to
15 conduct a search, the Controller has violated the California Constitution, Art. I, § 3, and the CPRA, Cal.
16 Gov't Code. § 6250 *et seq.* As a result, Plaintiffs have been forced to obtain legal counsel and file the
17 instant action to obtain the desired relief.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs American Transparency (d/b/a "OpenTheBooks.com") and Adam
20 Andrzejewski respectfully request and pray that this Court:

21 36. Issue a writ of mandate directing Defendant California State Controller to comply with the
22 California Constitution and the CPRA and, without further delay, provide a response to Plaintiffs'
23 request(s) and to disclose all non-exempt responsive public records;

24 37. In the alternative, issue an order that Defendant show cause as to why the Court should not issue a
25 writ of mandate and thereafter issue a peremptory writ compelling Defendant to perform its public duty,
26 as described above;

27 38. Declare that Defendant has violated Plaintiffs' constitutional and statutory rights by failing to
28 produce the requested public records;

1 39. Enter an injunction directing Defendant to waive applicable fees, if any, associated with Plaintiffs'
2 request(s) because of Defendant's unjustified delay in meeting its obligations under the CPRA;

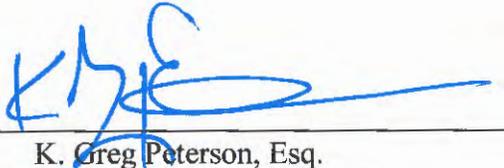
3 40. Enter judgment in Plaintiffs' favor for nominal damages;

4 41. Award Plaintiffs reasonable attorneys' fees and costs, as authorized by the CPRA, Cal. Gov't Code
5 § 6259; and,

6 42. Grant such other relief as the Court may deem just and proper.

7 Dated: January 10, 2020

K. GREG PETERSON, a Professional Law
Corporation

8
9
10 By: 

K. Greg Peterson, Esq.

11 Attorney for Plaintiffs American Transparency
12 (d/b/a "OpenTheBooks.com") and Adam
13 Andrzejewski
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VERIFICATION

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2 I, ADAM ANDRZEJEWSKI, on my own behalf and in my capacity as CEO and duly authorized
3 representative of American Transparency (d/b/a "OpenTheBooks.com"), have read the foregoing Petition
4 for Writ of Mandate and know the contents thereof. The same is true of my own knowledge, except as to
5 those matters which are therein alleged on information and belief, and I also believe those matters to be
6 true.
7

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is
9 true and correct. Executed this 10th day of January, 2020 at Du Page County, Illinois.

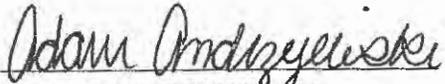
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EXHIBIT 1

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & Accountability™

August 23, 2019

VIA CERTIFIED MAIL

California State Controller
Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814
Fax Number: 916-322-1220

Re: California Public Records Act Request

Dear CPRA Officer:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, CoA Institute uses investigative and legal tools to educate the public about the importance of government transparency and accountability. We are representing Mr. Adam Andrzejewski and his organization, American Transparency (d/b/a OpenTheBooks.com), in filing this public records request relating to the disclosure of California State spending data on their behalf.

Pursuant to the California Constitution, Article I, Section 3, subdivision (b), and the California Public Records Act (“CPRA”),² California Government Code Section 6250, et seq., OpenTheBooks.com hereby requests the following records:

1. An electronic copy of all records relating to state spending information, including but not limited to all vendor (transfer of property or services) payee payments, checkbook payment data, warrant payment information, line-by-line vendor payments, batched claim reports, and batched claim depository data.
2. Any current or past iteration of a compendium, collection, software package tool, or report record of all state vendor payment warrants with *all available fields*, including but not limited to: (i) check date/ACH Date, (ii) payee/vendor name, (iii) payee/vendor address, (iv) check number/ACH code, (v) check amount/ACH amount (vi) description of products or services, (vii) organization/agency identifier number,

¹ See *About*, CAUSE OF ACTION INST., www.causeofaction.org/about/ (last accessed May 30, 2019).

² California Public Records Act, Cal. Gov't. Code §§ 6250–6270 (West 2019). All statutory references are to the California Government Code unless otherwise indicated. The CPRA is the California state analog to the federal Freedom of Information Act (“FOIA”) which may be used in construing the CPRA.

EXHIBIT 1

(viii) purpose of payment, (ix) department, agency, and (x) type of payment (i.e. contract, grant, etc.).

3. To the extent not covered by Items One or Two, records of all vendor payments for California State purchases made and services rendered for the applicable time period stated below.

The time period for each of the above items is January 2018 to the present.³

As you are aware, the California State Controller's Office ("SCO") "pays claims submitted by state agencies, who provide the payee name, mailing address, amount, and purpose of payment."⁴ Since this information is retained, used, and categorized by the SCO, this request seeks all records that contain this information otherwise not covered by Items One, Two, and Three for the time period January 2018 to the present.

Request for a Public Interest Fee Waiver

OpenTheBooks.com requests a waiver of any and all applicable fees. FOIA open access regulations provide that agencies 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."⁵ The CPRA expressly provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."⁶ The purpose is to give the public access to information that enables them to monitor the functioning of their government.⁷

The disclosure of the requested records will shed light on state fiscal matters such as electronically stored documents and data that contain information relating to line-by-line state vendor payments. These records directly pertain to the California state government's conduct in managing public revenues. The public has a right to view these records because they will provide insight into those matters and contribute to ongoing debate about the importance of transparency, especially in regard to state spending and state vendor checkbook expenditures. The requested records will be used to educate the public about state spending and to highlight the importance of transparency in state fiscal matters.

³ For purposes of this request, the term "present" should be construed as the date on which the SCO begins its search for responsive records.

⁴ See Betty T. Yee, *Frequently Asked Questions Regarding Warrants*, CAL. ST. CONTROLLER'S OFF. (May 3, 2019), https://www.sco.ca.gov/Files-ADD/warrant_faqs.pdf.

⁵ Cal. Gov't Code § 6253.9(b); 5 U.S.C. § 552(a)(4)(A)(iii); 41 C.F.R. § 105-60.305-13(a); see *Cause of Action v. Fed. Trade Comm'n*, 799 F.3d 1108, 1115-19 (D.C. Cir. 2015) (discussing proper application of the federal public-interest fee waiver test).

⁶ Cal. Gov't Code, § 6250.

⁷ *Id.* § 6253(a). See also *Am. Civil Liberties Union Found. of S. Cal. v. Superior Court of Los Angeles Cty.*, 186 Cal. Rptr. 3d 746 (Cal. App. 2d Dist. 2015).

Recognizing that California state agencies may reduce or waive fees under the discretionary authority granted to agencies under the CPRA to adopt requirements that provide greater access than the minimum standards set forth in the CPRA, OpenTheBooks.com requests a fee waiver for the above-mentioned reasons. This request is not principally for personal or commercial benefit, but rather simply exercising the general rights of the public. If there is a charge for this service, please obtain our approval in writing prior to proceeding with the request.

Record Production and Contact Information

In an effort 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, we request that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

All responsive records can be e-mailed to ashley.salvino@causeofaction.org or mailed in electronic format (preferred format would be .csv or .xls) to Ashley Salvino at the address provided in the footer to the first page of this letter. If any record or portion of a record responsive to this request is contained in a record or portion of a record deemed unresponsive to the request, Cause of Action Institute would like to inspect the entire record. If any records or portions of records are withheld, please state the exemption on which you rely, the basis on which the exemption is invoked, and the name of the individual responsible for the decision.⁸

If you have any questions about this request, please contact me by telephone at (202) 603-2791 or by e-mail at ashley.salvino@causeofaction.org. Thank you for your attention to this matter.

Sincerely,

Ashley Salvino

ASHLEY SALVINO
COUNSEL

⁸ Cal Gov't Code, § 6253.

EXHIBIT 2

CAUSE of ACTION INSTITUTE

Pursuing Freedom & Opportunity through Justice & AccountabilitySM

October 16, 2019

VIA FACSIMILE

California State Controller
Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814
Facsimile: (916) 322-1220

Re: California Public Records Act Request – Status Update

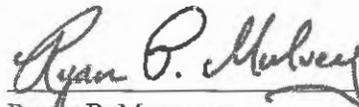
Dear CPRA Officer:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ By letter, dated August 23, 2019, CoA Institute submitted a Public Records Act request to the State Controller on behalf of its client, Mr. Adam Andrzejewski, and his organization, American Transparency (d/b/a OpenTheBooks.com).² We understand that the State Controller received a copy of the request by certified service on August 27, 2019.³ To date, our client has not received a response.

This letter follows my conversation with a member of the State Controller's Legal Office staff. I would appreciate if you could please provide me with an update on the status of the August 23, 2019 request, including an estimated date of completion, if possible. Additionally, I would further appreciate if you would add me as the primary point of contact for this request. Ms. Salvino, the original signatory, is no longer employed at CoA Institute.

If you have any questions about this request, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your attention to this matter.

Sincerely,



RYAN P. MULVEY
COUNSEL

¹ See *About*, CAUSE OF ACTION INST., www.causeofaction.org/about (last accessed Oct. 16, 2019).

² Letter from Ashley Salvino, Cause of Action Inst., to Calif. State Controller (Aug. 23, 2019) (on file with CoA Inst.).

³ U.S. Postal Serv., Delivery Confirmation, Tracking No. 9414711899561565829497 (on file with CoA Inst.).

EXHIBIT 3

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & AccountabilitySM

November 7, 2019

VIA EXPRESS DELIVERY

Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814

Re: August 23, 2019 Public Records Act Request

Dear CPRA Officer:

I am an attorney with Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ By letter, dated August 23, 2019, one of my colleagues, Ms. Ashley Salvino, submitted a California Public Records Act (“CPRA”) request to the State Controller on behalf of our client, Mr. Adam Andrzejewski, and his organization, American Transparency (d/b/a OpenTheBooks.com).² The Controller received a copy of Mr. Andrzejewski’s request by certified service on August 27, 2019.³

To date, neither we nor our client have received a response. Despite my repeated attempts to contact a responsible official, the Controller’s Office has failed to provide any substantive update regarding the processing of Mr. Andrzejewski’s CPRA request. I have left recorded messages with the Legal Office, and even spoken with staff. Yet no knowledgeable official has returned my calls and I have not received any formal written correspondence concerning this matter.

As you are no doubt aware, the CPRA requires the Controller to “promptly” disclose reasonably described, nonexempt public records. CAL. GOV’T CODE § 6253(b). The Controller also is required to issue a written determination as to whether a record within its control is disclosable within ten days. *Id.* § 6253(c). In this instance, the Controller’s Office has failed to issue a timely determination. *See id.* § 6253(d); *cf. id.* § 6255(a)–(b). It also has not cited “unusual circumstances” triggering the statutorily provided fourteen-day extension of its response period and has not otherwise indicated that Mr. Andrzejewski’s CPRA request may be imperfect. *Id.* § 6253(c).

The Controller has violated all possible deadlines under the CPRA. Accordingly, please acknowledge receipt of this letter and provide a written commitment to issuing a determination or production of records within **ten working days**. If the Controller’s Office fails to satisfy its legal obligations by this date, Mr. Andrzejewski and OpenTheBooks are prepared to enforce their rights in a court of law. I strongly urge the Controller’s Office to heed this reasonable request.

¹ *See About*, CAUSE OF ACTION INST., www.causeofaction.org/about (last visited Nov. 7, 2019).

² Letter from Ashley Salvino, Cause of Action Inst., to Calif. State Controller (Aug. 23, 2019) (attached as Exhibit 1).

³ U.S. Postal Serv., Delivery Confirmation, Tracking No. 9414711899561565829497 (on file with CoA Inst.). By facsimile letter, dated October 16, 2019, I advised the Controller that Ms. Salvino was no longer employed with CoA Institute and, further, that I would be assuming responsibility for this matter. *See* Exhibit 2.

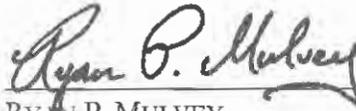
SCO CPRA Request

November 7, 2019

Page 2

If you have any questions about this correspondence, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Ryan P. Mulvey". The signature is written in a cursive style with a horizontal line underneath it.

RYAN P. MULVEY
COUNSEL

EXHIBIT 1

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & Accountability™

August 23, 2019

VIA CERTIFIED MAIL

California State Controller
Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814
Fax Number: 916-322-1220

Re: California Public Records Act Request

Dear CPRA Officer:

I write on behalf of Cause of Action Institute ("CoA Institute"), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, CoA Institute uses investigative and legal tools to educate the public about the importance of government transparency and accountability. We are representing Mr. Adam Andrzejewski and his organization, American Transparency (d/b/a OpenTheBooks.com), in filing this public records request relating to the disclosure of California State spending data on their behalf.

Pursuant to the California Constitution, Article I, Section 3, subdivision (b), and the California Public Records Act ("CPRA"),² California Government Code Section 6250, et seq., OpenTheBooks.com hereby requests the following records:

1. An electronic copy of all records relating to state spending information, including but not limited to all vendor (transfer of property or services) payee payments, checkbook payment data, warrant payment information, line-by-line vendor payments, batched claim reports, and batched claim depository data.
2. Any current or past iteration of a compendium, collection, software package tool, or report record of all state vendor payment warrants with *all available fields*, including but not limited to: (i) check date/ACH Date, (ii) payee/vendor name, (iii) payee/vendor address, (iv) check number/ACH code, (v) check amount/ACH amount (vi) description of products or services, (vii) organization/agency identifier number,

¹ See *About*, CAUSE OF ACTION INST., www.causeofaction.org/about/ (last accessed May 30, 2019).

² California Public Records Act, Cal. Gov't. Code §§ 6250–6270 (West 2019). All statutory references are to the California Government Code unless otherwise indicated. The CPRA is the California state analog to the federal Freedom of Information Act ("FOIA") which may be used in construing the CPRA.

(viii) purpose of payment, (ix) department, agency, and (x) type of payment (i.e. contract, grant, etc.).

3. To the extent not covered by Items One or Two, records of all vendor payments for California State purchases made and services rendered for the applicable time period stated below.

The time period for each of the above items is January 2018 to the present.³

As you are aware, the California State Controller's Office ("SCO") "pays claims submitted by state agencies, who provide the payee name, mailing address, amount, and purpose of payment."⁴ Since this information is retained, used, and categorized by the SCO, this request seeks all records that contain this information otherwise not covered by Items One, Two, and Three for the time period January 2018 to the present.

Request for a Public Interest Fee Waiver

OpenTheBooks.com requests a waiver of any and all applicable fees. FOIA open access regulations provide that agencies 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."⁵ The CPRA expressly provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."⁶ The purpose is to give the public access to information that enables them to monitor the functioning of their government.⁷

The disclosure of the requested records will shed light on state fiscal matters such as electronically stored documents and data that contain information relating to line-by-line state vendor payments. These records directly pertain to the California state government's conduct in managing public revenues. The public has a right to view these records because they will provide insight into those matters and contribute to ongoing debate about the importance of transparency, especially in regard to state spending and state vendor checkbook expenditures. The requested records will be used to educate the public about state spending and to highlight the importance of transparency in state fiscal matters.

³ For purposes of this request, the term "present" should be construed as the date on which the SCO begins its search for responsive records.

⁴ See Betty T. Yee, *Frequently Asked Questions Regarding Warrants*, CAL. ST. CONTROLLER'S OFF. (May 3, 2019), https://www.sco.ca.gov/Files-ADD/warrant_faqs.pdf.

⁵ Cal. Gov't Code § 6253.9(b); 5 U.S.C. § 552(a)(4)(A)(iii); 41 C.F.R. § 105-60.305-13(a); see *Cause of Action v. Fed. Trade Comm'n*, 799 F.3d 1108, 1115-19 (D.C. Cir. 2015) (discussing proper application of the federal public-interest fee waiver test).

⁶ Cal. Gov't Code, § 6250.

⁷ *Id.* § 6253(a). See also *Am. Civil Liberties Union Found. of S. Cal. v. Superior Court of Los Angeles Cty.*, 186 Cal. Rptr. 3d 746 (Cal. App. 2d Dist. 2015).

Recognizing that California state agencies may reduce or waive fees under the discretionary authority granted to agencies under the CPRA to adopt requirements that provide greater access than the minimum standards set forth in the CPRA, OpenTheBooks.com requests a fee waiver for the above-mentioned reasons. This request is not principally for personal or commercial benefit, but rather simply exercising the general rights of the public. If there is a charge for this service, please obtain our approval in writing prior to proceeding with the request.

Record Production and Contact Information

In an effort 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, we request that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

All responsive records can be e-mailed to ashley.salvino@causeofaction.org or mailed in electronic format (preferred format would be .csv or .xls) to Ashley Salvino at the address provided in the footer to the first page of this letter. If any record or portion of a record responsive to this request is contained in a record or portion of a record deemed unresponsive to the request, Cause of Action Institute would like to inspect the entire record. If any records or portions of records are withheld, please state the exemption on which you rely, the basis on which the exemption is invoked, and the name of the individual responsible for the decision.⁸

If you have any questions about this request, please contact me by telephone at (202) 603-2791 or by e-mail at ashley.salvino@causeofaction.org. Thank you for your attention to this matter.

Sincerely,

Ashley Salvino

ASHLEY SALVINO
COUNSEL

⁸ Cal Gov't Code, § 6253.

EXHIBIT 2

CAUSE of ACTION INSTITUTE

Pursuing Freedom & Opportunity through Justice & Accountability™

October 16, 2019

VIA FACSIMILE

California State Controller
Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814
Facsimile: (916) 322-1220

Re: California Public Records Act Request – Status Update

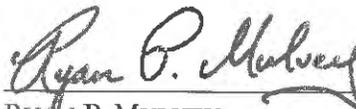
Dear CPRA Officer:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ By letter, dated August 23, 2019, CoA Institute submitted a Public Records Act request to the State Controller on behalf of its client, Mr. Adam Andrzejewski, and his organization, American Transparency (d/b/a OpenTheBooks.com).² We understand that the State Controller received a copy of the request by certified service on August 27, 2019.³ To date, our client has not received a response.

This letter follows my conversation with a member of the State Controller's Legal Office staff. I would appreciate if you could please provide me with an update on the status of the August 23, 2019 request, including an estimated date of completion, if possible. Additionally, I would further appreciate if you would add me as the primary point of contact for this request. Ms. Salvino, the original signatory, is no longer employed at CoA Institute.

If you have any questions about this request, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your attention to this matter.

Sincerely,



RYAN P. MULVEY
COUNSEL

¹ See *About*, CAUSE OF ACTION INST., www.causeofaction.org/about (last accessed Oct. 16, 2019).

² Letter from Ashley Salvino, Cause of Action Inst., to Calif. State Controller (Aug. 23, 2019) (on file with CoA Inst.).

³ U.S. Postal Serv., Delivery Confirmation, Tracking No. 9414711899561565829497 (on file with CoA Inst.).

EXHIBIT 4



BETTY T. YEE
California State Controller

November 4, 2019

Ashley Salvino
Cause of Action Institute
1875 Eye Street NW
Suite 800
Washington DC 20006

Re: Public Records Act Request

This is in reply to your Public Records Act request dated August 23, 2019. The request mirrors prior requests made by your client, Mr. Adam Andrzejewski and his organization, American Transparency (dba Openthebooks.com) approximately 6 years ago and which were promptly responded to.

As explained at that time, as was the case previously, your request is not entirely clear with respect to vendor payments and, as such, the State Controller's Office is unable to comply with your request.

The State of California, State Controller's Office does not maintain a centralized vendor contract database which would allow it to identify all contracts regardless of the agency awarding such contract. In fact, many state contracts are paid for directly by the contracting agency. This procedure allows the contracting agency to make such payments as expeditiously as possible thereby taking advantage of an early payment discount which may be available.

Moreover, the Controller's Office receives literally thousands of claims for payment daily. Claims are batched by date received and are not segregated, logged or otherwise tracked by agency, employee or payment type. Consequently, because of the way the claims are batched and processed by this office, we are unable to locate or otherwise provide you with the documents requested.

First, when I say decentralized I mean that the State Controller does not pay all contracts. Rather, many contracts are paid directly by the contracting agency. In California, there are approximately 500 California state governmental agencies, departments and commissions each of which pay some or all of their vendors directly. The State Controller's Office does not maintain a "check" register dedicated solely to vendor payments which covers all vendor payments made by every agency, board and commission of the State of California.

In basic terms, and using the following example, the process works in the following manner.

Scenario 1—Agency Pay

1. An agency contracts for the delivery of goods and/or services and is billed by the vendor accordingly.
2. The contracting agency decides to pay the vendor in order to take advantage of a 30/60/90 discount.
3. The contracting agency writes a check payable from the agency's Revolving Fund account. Each agency has its own Revolving Fund account which is essentially a checking account from which an agency can pay its bills.
4. Periodically, the agency will forward a claim to the State Controller requesting that its Revolving Fund account be replenished. The agency's claim is supported by a listing of expenditures made from the Revolving Fund as well as any backup information the agency has to support the expenditure.
5. The claim for reimbursement is audited upon receipt prior to the Controller replenishing the agency's revolving fund.
6. All claim schedules are batched by date of receipt and are not segregated by agency or payment type.

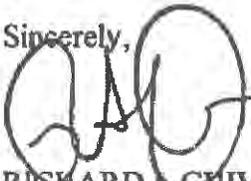
Scenario 2—Controller Pays Claim

1. An agency contracts for the delivery of goods and/or services and is billed by the vendor accordingly.
2. The contracting agency prepares a claim schedule, attaches the invoice and submits the claim to the Controller for payment.
3. The Controller audits the claim prior to payment and either rejects or pays the claim.
4. The claim schedule is batched by date of receipt and are not segregated by agency or payment type.

Under scenario 1, the decentralized payment method, since the Controller issues her payment to the agency revolving fund as opposed to any particular vendor, the vendor payments made by the agency are not recorded into the Controller's system.

For the reasons explained above, and absent any clarification to your request, this office is unable to comply with your request.

Sincerely,



RICHARD J. CHIVARO
Chief Counsel

RJC/sw

EXHIBIT 5

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & AccountabilitySM

November 11, 2019

VIA EXPRESS DELIVERY

Legal Office
Richard J. Chivaro, Chief Counsel
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814

Re: California Public Records Act Request & Clarification

Dear Mr. Chivaro:

I write with respect to your response, dated November 4, 2019, to my client's California Public Records Act ("CPRA") request. That request seeks various records relating to the disclosure of state vendor spending data.¹ The State Controller received the request on August 27, 2019.² Prior to the issuance of your office's determination, I also sent multiple letters concerning the Controller Office's failure to issue a timely response.³ This letter serves as a clarification of the August 23, 2019 CPRA request and should be administratively treated as a new request considering your representations about the Controller's lack of a "centralized vendor contract database" and its apparent inability even to search for responsive records.⁴

First, it appears that the Controller's Office has assumed that the scope of Mr. Andrzejewski's request depends on the existence of a "centralized" vendor-payment-specific database—which you claim does not exist—or the use of (or ability to use) certain methods of "batching" in tracking warrants. Yet Mr. Andrzejewski's request clearly states that it seeks "*all* records relating to state spending information," including "records of *all* vendor payments." Thus all such records should be treated as responsive, regardless of the particular method by which they are received, retained, or used by the Controller.⁵ Any further specificity, such as language following the terms "including but not limited to," was merely intended to be illustrative and was included in an effort to assist the Controller's Office in designing its search.

Second, you have indicated that, at least in some instances, the Controller is, in fact, responsible for the payment of contracts, and not individual agencies, boards, or commissions.⁶ In such cases, the Controller would obtain or produce relevant claim schedules, invoices, and other records in the course of auditing and paying individual claims. All these records should have been treated as

¹ Letter from Ashley Salvino, Cause of Action Inst., to Calif. State Controller (Aug. 23, 2019) (attached as Exhibit 1).

² U.S. Postal Serv., Delivery Confirmation, Tracking No. 9414711899561565829497 (on file with CoA Inst.).

³ See Exhibits 2 & 3.

⁴ This letter is intended to clarify the scope of my client's first request. To the extent necessary, please construe this letter as a new CPRA request for tracking or administrative purposes.

⁵ Ex. 1 at 1–2 (emphasis added).

⁶ See Exhibit 4.

potentially responsive to Mr. Andrzejewski's request. Yet this was not done, and it is not clear *why* the Controller is unable to search for them by date of receipt or through other means.

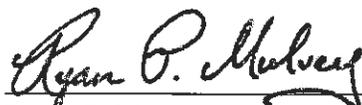
Third, even for those instances in which state government entities are directly responsible for the payment of contracts for delivery of goods or services, the Controller is still likely to control responsive records. As you have explained, whenever an agency seeks to replenish its Revolving Fund Account, it "forward[s] a claim to the State Controller . . . supported by a listing of expenditures . . . as well as any backup information," which the Controller then "audit[s] upon receipt prior to . . . replenishing the agency's revolving fund."⁷ These records—*viz.*, the claim, the list of expenditures, backup information from the agency, and auditing results—fall within the scope of Mr. Andrzejewski's request because they ultimately concern the payment of vendor contracts, even if the Controller is not directly responsible for issuing warrants in any particular case.

Finally, it is difficult to accept your apparent contention that the Controller does not retain, or is unable to access, *any* records concerning the payment of vendor contracts. If this is true, then the Controller would be unable to conduct its own internal audits, and it would be unable to respond to oversight request from the Governor or the Legislature.

Accordingly, pursuant to Article I, Section 3, subdivision (b) of the California Constitution, and the CPRA, CAL. GOV'T CODE § 6250, *et seq.*, I respectfully request that the Controller's Office reprocess Mr. Andrzejewski's August 23, 2019 request in light of the foregoing clarifications. Please treat this as a new request for administrative purposes. If the Controller maintains that it is technologically limited in its ability to design a reasonable search, it would be helpful for the agency to provide a more-detailed explanation of that inability in a supplemental response letter. To date, however, the Controller's failure to provide responsive records appears to be based on an unduly narrow and "technical" interpretation of otherwise broad yet reasonable request language.

Please acknowledge receipt of this letter and provide a written determination as to whether non-exempt responsive records are under the legal control of the Controller within **ten working days**. *Id.* § 6253(c). If you have any questions about this correspondence, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your prompt attention to this matter.

Sincerely,



RYAN P. MULVEY
COUNSEL

⁷ Exhibit 4.

EXHIBIT

1

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & Accountability™

August 23, 2019

VIA CERTIFIED MAIL

California State Controller
Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814
Fax Number: 916-322-1220

Re: California Public Records Act Request

Dear CPRA Officer:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ In carrying out its mission, CoA Institute uses investigative and legal tools to educate the public about the importance of government transparency and accountability. We are representing Mr. Adam Andrzejewski and his organization, American Transparency (d/b/a OpenTheBooks.com), in filing this public records request relating to the disclosure of California State spending data on their behalf.

Pursuant to the California Constitution, Article I, Section 3, subdivision (b), and the California Public Records Act (“CPRA”),² California Government Code Section 6250, et seq., OpenTheBooks.com hereby requests the following records:

1. An electronic copy of all records relating to state spending information, including but not limited to all vendor (transfer of property or services) payee payments, checkbook payment data, warrant payment information, line-by-line vendor payments, batched claim reports, and batched claim depository data.
2. Any current or past iteration of a compendium, collection, software package tool, or report record of all state vendor payment warrants with *all available fields*, including but not limited to: (i) check date/ACH Date, (ii) payee/vendor name, (iii) payee/vendor address, (iv) check number/ACH code, (v) check amount/ACH amount (vi) description of products or services, (vii) organization/agency identifier number,

¹ See *About*, CAUSE OF ACTION INST., www.causeofaction.org/about/ (last accessed May 30, 2019).

² California Public Records Act, Cal. Gov't. Code §§ 6250–6270 (West 2019). All statutory references are to the California Government Code unless otherwise indicated. The CPRA is the California state analog to the federal Freedom of Information Act (“FOIA”) which may be used in construing the CPRA.

(viii) purpose of payment, (ix) department, agency, and (x) type of payment (i.e. contract, grant, etc.).

3. To the extent not covered by Items One or Two, records of all vendor payments for California State purchases made and services rendered for the applicable time period stated below.

The time period for each of the above items is January 2018 to the present.³

As you are aware, the California State Controller's Office ("SCO") "pays claims submitted by state agencies, who provide the payee name, mailing address, amount, and purpose of payment."⁴ Since this information is retained, used, and categorized by the SCO, this request seeks all records that contain this information otherwise not covered by Items One, Two, and Three for the time period January 2018 to the present.

Request for a Public Interest Fee Waiver

OpenTheBooks.com requests a waiver of any and all applicable fees. FOIA open access regulations provide that agencies 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."⁵ The CPRA expressly provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."⁶ The purpose is to give the public access to information that enables them to monitor the functioning of their government.⁷

The disclosure of the requested records will shed light on state fiscal matters such as electronically stored documents and data that contain information relating to line-by-line state vendor payments. These records directly pertain to the California state government's conduct in managing public revenues. The public has a right to view these records because they will provide insight into those matters and contribute to ongoing debate about the importance of transparency, especially in regard to state spending and state vendor checkbook expenditures. The requested records will be used to educate the public about state spending and to highlight the importance of transparency in state fiscal matters.

³ For purposes of this request, the term "present" should be construed as the date on which the SCO begins its search for responsive records.

⁴ See Betty T. Yee, *Frequently Asked Questions Regarding Warrants*, CAL. ST. CONTROLLER'S OFF. (May 3, 2019), https://www.sco.ca.gov/Files-ADD/warrant_faqs.pdf.

⁵ Cal. Gov't Code § 6253.9(b); 5 U.S.C. § 552(a)(4)(A)(iii); 41 C.F.R. § 105-60.305-13(a); see *Cause of Action v. Fed. Trade Comm'n*, 799 F.3d 1108, 1115-19 (D.C. Cir. 2015) (discussing proper application of the federal public-interest fee waiver test).

⁶ Cal. Gov't Code, § 6250.

⁷ *Id.* § 6253(a). See also *Am. Civil Liberties Union Found. of S. Cal. v. Superior Court of Los Angeles Cty.*, 186 Cal. Rptr. 3d 746 (Cal. App. 2d Dist. 2015).

Recognizing that California state agencies may reduce or waive fees under the discretionary authority granted to agencies under the CPRA to adopt requirements that provide greater access than the minimum standards set forth in the CPRA, OpenTheBooks.com requests a fee waiver for the above-mentioned reasons. This request is not principally for personal or commercial benefit, but rather simply exercising the general rights of the public. If there is a charge for this service, please obtain our approval in writing prior to proceeding with the request.

Record Production and Contact Information

In an effort 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, we request that those records be produced first and the remaining records be produced on a rolling basis as circumstances permit.

All responsive records can be e-mailed to ashley.salvino@causeofaction.org or mailed in electronic format (preferred format would be .csv or .xls) to Ashley Salvino at the address provided in the footer to the first page of this letter. If any record or portion of a record responsive to this request is contained in a record or portion of a record deemed unresponsive to the request, Cause of Action Institute would like to inspect the entire record. If any records or portions of records are withheld, please state the exemption on which you rely, the basis on which the exemption is invoked, and the name of the individual responsible for the decision.⁸

If you have any questions about this request, please contact me by telephone at (202) 603-2791 or by e-mail at ashley.salvino@causeofaction.org. Thank you for your attention to this matter.

Sincerely,

Ashley Salvino

ASHLEY SALVINO
COUNSEL

⁸ Cal Gov't Code, § 6253.

EXHIBIT

2

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & AccountabilitySM

October 16, 2019

VIA FACSIMILE

California State Controller
Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814
Facsimile: (916) 322-1220

Re: California Public Records Act Request – Status Update

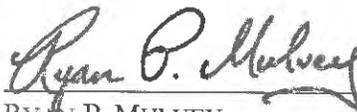
Dear CPRA Officer:

I write on behalf of Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ By letter, dated August 23, 2019, CoA Institute submitted a Public Records Act request to the State Controller on behalf of its client, Mr. Adam Andrzejewski, and his organization, American Transparency (d/b/a OpenTheBooks.com).² We understand that the State Controller received a copy of the request by certified service on August 27, 2019.³ To date, our client has not received a response.

This letter follows my conversation with a member of the State Controller’s Legal Office staff. I would appreciate if you could please provide me with an update on the status of the August 23, 2019 request, including an estimated date of completion, if possible. Additionally, I would further appreciate if you would add me as the primary point of contact for this request. Ms. Salvino, the original signatory, is no longer employed at CoA Institute.

If you have any questions about this request, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your attention to this matter.

Sincerely,



RYAN P. MULVEY
COUNSEL

¹ See *About*, CAUSE OF ACTION INST., www.causeofaction.org/about (last accessed Oct. 16, 2019).

² Letter from Ashley Salvino, Cause of Action Inst., to Calif. State Controller (Aug. 23, 2019) (on file with CoA Inst.).

³ U.S. Postal Serv., Delivery Confirmation, Tracking No. 9414711899561565829497 (on file with CoA Inst.).

EXHIBIT

3

CAUSE of ACTION

INSTITUTE

Pursuing Freedom & Opportunity through Justice & Accountability™

November 7, 2019

VIA EXPRESS DELIVERY

Legal Office
Attn: Public Records Request
State Controller's Office
300 Capitol Mall, Suite 1850
Sacramento, CA 95814

Re: August 23, 2019 Public Records Act Request

Dear CPRA Officer:

I am an attorney with Cause of Action Institute (“CoA Institute”), a nonprofit strategic oversight group committed to ensuring that government decision-making is open, honest, and fair.¹ By letter, dated August 23, 2019, one of my colleagues, Ms. Ashley Salvino, submitted a California Public Records Act (“CPRA”) request to the State Controller on behalf of our client, Mr. Adam Andrzejewski, and his organization, American Transparency (d/b/a OpenTheBooks.com).² The Controller received a copy of Mr. Andrzejewski’s request by certified service on August 27, 2019.³

To date, neither we nor our client have received a response. Despite my repeated attempts to contact a responsible official, the Controller’s Office has failed to provide any substantive update regarding the processing of Mr. Andrzejewski’s CPRA request. I have left recorded messages with the Legal Office, and even spoken with staff. Yet no knowledgeable official has returned my calls and I have not received any formal written correspondence concerning this matter.

As you are no doubt aware, the CPRA requires the Controller to “promptly” disclose reasonably described, nonexempt public records. CAL. GOV’T CODE § 6253(b). The Controller also is required to issue a written determination as to whether a record within its control is disclosable within ten days. *Id.* § 6253(c). In this instance, the Controller’s Office has failed to issue a timely determination. *See id.* § 6253(d); *cf. id.* § 6255(a)–(b). It also has not cited “unusual circumstances” triggering the statutorily provided fourteen-day extension of its response period and has not otherwise indicated that Mr. Andrzejewski’s CPRA request may be imperfect. *Id.* § 6253(c).

The Controller has violated all possible deadlines under the CPRA. Accordingly, please acknowledge receipt of this letter and provide a written commitment to issuing a determination or production of records within **ten working days**. If the Controller’s Office fails to satisfy its legal obligations by this date, Mr. Andrzejewski and OpenTheBooks are prepared to enforce their rights in a court of law. I strongly urge the Controller’s Office to heed this reasonable request.

¹ *See About*, CAUSE OF ACTION INST., www.causeofaction.org/about (last visited Nov. 7, 2019).

² Letter from Ashley Salvino, Cause of Action Inst., to Calif. State Controller (Aug. 23, 2019) (attached as Exhibit 1).

³ U.S. Postal Serv., Delivery Confirmation, Tracking No. 9414711899561565829497 (on file with CoA Inst.). By facsimile letter, dated October 16, 2019, I advised the Controller that Ms. Salvino was no longer employed with CoA Institute and, further, that I would be assuming responsibility for this matter. *See* Exhibit 2.

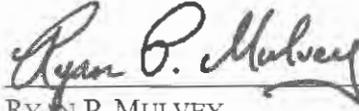
SCO CPRA Request

November 7, 2019

Page 2

If you have any questions about this correspondence, please contact me by telephone at (202) 603-7698 or by e-mail at ryan.mulvey@causeofaction.org. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Ryan P. Mulvey". The signature is written in a cursive style with a horizontal line underneath it.

RYAN P. MULVEY
COUNSEL

EXHIBIT

4



BETTY T. YEE
California State Controller

November 4, 2019

Ashley Salvino
Cause of Action Institute
1875 Eye Street NW
Suite 800
Washington DC 20006

Re: Public Records Act Request

This is in reply to your Public Records Act request dated August 23, 2019. The request mirrors prior requests made by your client, Mr. Adam Andrzejewski and his organization, American Transparency (dba Openthebooks.com) approximately 6 years ago and which were promptly responded to.

As explained at that time, as was the case previously, your request is not entirely clear with respect to vendor payments and, as such, the State Controller's Office is unable to comply with your request.

The State of California, State Controller's Office does not maintain a centralized vendor contract database which would allow it to identify all contracts regardless of the agency awarding such contract. In fact, many state contracts are paid for directly by the contracting agency. This procedure allows the contracting agency to make such payments as expeditiously as possible thereby taking advantage of an early payment discount which may be available.

Moreover, the Controller's Office receives literally thousands of claims for payment daily. Claims are batched by date received and are not segregated, logged or otherwise tracked by agency, employee or payment type. Consequently, because of the way the claims are batched and processed by this office, we are unable to locate or otherwise provide you with the documents requested.

First, when I say decentralized I mean that the State Controller does not pay all contracts. Rather, many contracts are paid directly by the contracting agency. In California, there are approximately 500 California state governmental agencies, departments and commissions each of which pay some or all of their vendors directly. The State Controller's Office does not maintain a "check" register dedicated solely to vendor payments which covers all vendor payments made by every agency, board and commission of the State of California.

In basic terms, and using the following example, the process works in the following manner.

Scenario 1—Agency Pay

1. An agency contracts for the delivery of goods and/or services and is billed by the vendor accordingly.
2. The contracting agency decides to pay the vendor in order to take advantage of a 30/60/90 discount.
3. The contracting agency writes a check payable from the agency's Revolving Fund account— Each agency has its own Revolving Fund account which is essentially a checking account from which an agency can pay its bills.
4. Periodically, the agency will forward a claim to the State Controller requesting that its Revolving Fund account be replenished. The agency's claim is supported by a listing of expenditures made from the Revolving Fund as well as any backup information the agency has to support the expenditure.
5. The claim for reimbursement is audited upon receipt prior to the Controller replenishing the agency's revolving fund.
6. All claim schedules are batched by date of receipt and are not segregated by agency or payment type.

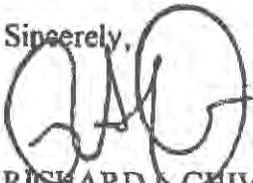
Scenario 2—Controller Pays Claim

1. An agency contracts for the delivery of goods and/or services and is billed by the vendor accordingly.
2. The contracting agency prepares a claim schedule, attaches the invoice and submits the claim to the Controller for payment.
3. The Controller audits the claim prior to payment and either rejects or pays the claim.
4. The claim schedule is batched by date of receipt and are not segregated by agency or payment type.

Under scenario 1, the decentralized payment method, since the Controller issues her payment to the agency revolving fund as opposed to any particular vendor, the vendor payments made by the agency are not recorded into the Controller's system.

For the reasons explained above, and absent any clarification to your request, this office is unable to comply with your request.

Sincerely,



RICHARD J. CHIVARO
Chief Counsel

RJC/sw