

**EXHIBIT**  
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July 29, 2015

**VIA E-MAIL**

Mr. Michael Marquis  
U.S. Department of Health and Human Services  
Departmental FOIA Office  
Hubert H. Humphrey Building, Room 729H  
200 Independence Avenue, SW  
Washington, D.C. 20201  
E-mail: FOIARequest@hhs.gov

**Re: Freedom of Information Act Request**

Dear Mr. Marquis:

I write on behalf of Cause of Action, a nonprofit strategic oversight group committed to ensuring that the regulatory process is transparent, fair, and accountable.<sup>1</sup> In carrying out its mission, Cause of Action uses various investigative and legal tools to educate the public about the importance of government transparency and accountability.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), Cause of Action requests access to the following:

1. All travel records of Secretaries of Health and Human Services Sylvia Burwell and Kathleen Sebelius related to travel (a) on Air Force One, (b) with the President or Vice President, or (c) to or from meetings with the President or Vice President outside of Washington, D.C., from January 1, 2014 to the present.
2. All work calendars of Secretaries of Health and Human Services Sylvia Burwell and Kathleen Sebelius related to meetings that (a) occurred at the White House or (b) included representatives of the Executive Office of the President, from January 1, 2014 to the present.
3. All records of correspondence received by the Office of the Secretary or the Office of the Assistant Secretary for Legislation (including the Congressional Liaison Office) from (a) Senator Barack Obama, or any member of Senator Obama’s congressional staff, or (b) Senator Joseph Biden, or any member of Senator Biden’s congressional staff, from January 3, 2005 to November 3, 2008.

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<sup>1</sup> See CAUSE OF ACTION, [www.causeofaction.org](http://www.causeofaction.org).

### Request to be Classified as a Representative of the News Media

For fee status purposes, Cause of Action qualifies as a “representative of the news media” under FOIA.<sup>2</sup> Specifically, Cause of Action 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.<sup>3</sup> Cause of Action gathers the news it regularly publishes from a variety of sources, including FOIA requests, whistleblowers/insiders, and scholarly works. Cause of Action does not merely make raw information available to the public, but rather distributes distinct work products, including articles, blog posts, investigative reports, newsletters, and Congressional testimony and statements for the record.<sup>4</sup> These distinct works are distributed to the public through various media, including Cause of Action’s website, which has been viewed approximately 100,000 times in the past year alone.<sup>5</sup> Cause of Action also disseminates news to the public via Twitter and Facebook, and it provides news updates to subscribers via e-mail.

The statutory definition of a “representative of the news media” unequivocally contemplates that organizations such as Cause of Action, which electronically disseminate information and publications via “alternative media[,] shall be considered to be news-media entities.”<sup>6</sup> In light of the foregoing, numerous federal agencies have appropriately recognized Cause of Action’s news media status in connection with its FOIA requests.<sup>7</sup>

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<sup>2</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II); 45 C.F.R. § 5.5.

<sup>3</sup> Cause of Action notes that HHS’s definition of “representative of the news media” (45 C.F.R. § 5.5) is in conflict with the statutory definition. HHS has improperly retained the outdated “organized and operated” standard that Congress abrogated when it provided a statutory definition in the Open Government Act of 2007. Under either definition, however, Cause of Action qualifies as a representative of the news media.

<sup>4</sup> See, e.g., *Cause of Action Testifies Before Congress on Questionable White House Detail Program*, CAUSE OF ACTION (May 19, 2015), available at <http://goo.gl/Byditl>; CAUSE OF ACTION, 2015 GRADING THE GOVERNMENT REPORT CARD (Mar. 16, 2015), available at <http://goo.gl/MqObwV>; *Cause of Action Launches Online Resource: ExecutiveBranchEarmarks.com*, CAUSE OF ACTION (Sept. 8, 2014), available at <http://goo.gl/935qAi>; CAUSE OF ACTION, GRADING THE GOVERNMENT: HOW THE WHITE HOUSE TARGETS DOCUMENT REQUESTERS (Mar. 18, 2014), available at <http://goo.gl/BiaEaH>; CAUSE OF ACTION, GREENTECH AUTOMOTIVE: A VENTURE CAPITALIZED BY CRONYISM (Sept. 23, 2013), available at <http://goo.gl/N0xSvs>; CAUSE OF ACTION, POLITICAL PROFITEERING: HOW FOREST CITY ENTERPRISES MAKES PRIVATE PROFITS AT THE EXPENSE OF AMERICAN TAXPAYERS PART I (Aug. 2, 2013), available at <http://goo.gl/GpP1wR>.

<sup>5</sup> *Google Analytics* for <http://www.causeofaction.org> (on file with Cause of Action).

<sup>6</sup> 5 U.S.C. § 552(a)(4)(A)(ii)(II).

<sup>7</sup> See, e.g., FOIA Request No. 15-05002, Sec. & Exch. Comm’n (July 23, 2015); FOIA Request No. 145-FOI-13785, Dep’t of Justice (June 16, 2015); FOIA Request 15-00326-F, Dep’t of Educ. (Apr. 8, 2015); FOIA Request 2015-26, Fed. Energy Regulatory Comm’n (Feb. 13, 2015); FOIA Request HQ-2015-00248, Dep’t of Energy (Nat’l Headquarters) (Dec. 15, 2014); FOIA Request F-2015-106, Fed. Commc’n Comm’n (Dec. 12, 2014); FOIA Request HQ-2015-00245-F, Dep’t of Energy (Dec. 4, 2014); Dep’t of State, F-2014-21360 (Dec. 3, 2014); Nat’l Labor Relations Bd. (Dec. 1, 2014); FOIA Request 201500009F, Exp.-Imp. Bank (Nov. 21, 2014); FOIA Request 2015-OSEC-00771-F, U.S. Dep’t of Agric. (OCIO) (Nov. 21, 2014); FOIA Request OS-2015-00068, U.S. Dep’t of Interior (Office of Sec’y) (Nov. 20, 2014); FOIA Request CFPB-2015-049-F, Consumer Fin. Prot. Bureau (Nov. 19, 2014); FOIA Request GO-14-307, Dep’t of Energy (Nat’l Renewable Energy Lab.) (Aug. 28, 2014); FOIA Request HQ-2014-01580-F, Dep’t of Energy (Nat’l Headquarters) (Aug. 14, 2014); FOIA Request LR-20140441, Nat’l Labor Relations Bd. (June 4, 2014); FOIA Request 14-01095, Sec. & Exch. Comm’n (May 7, 2014); FOIA Request 2014-4QFO-00236, Dep’t of Homeland Sec. (Jan. 8, 2014); FOIA Request DOC-OS-2014-000304, Dep’t of Commerce (Dec. 30, 2013); FOIA Request 14F-036, Health Res. & Serv. Admin. (Dec. 6, 2013); FOIA Request 2013-073, Dep’t of Homeland Sec. (Apr. 5, 2013); FOIA Request 2012-RMA-02563F, Dep’t of Agric. (May 3, 2012); FOIA Request 2012-00270, Dep’t of Interior (Feb. 17, 2012); FOIA Request 12-00455-F, Dep’t of Educ. (Jan. 20, 2012).

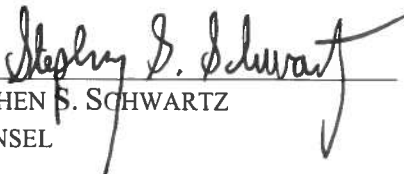
**Record Production and Contact Information**

In an effort to facilitate document review, please provide the responsive documents in electronic form in lieu of a paper production. If readily reproducible, the production should consist of load files that are compatible with Concordance® Evolution. If a certain portion of responsive records can be produced more readily, Cause of Action 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 Stephen Schwartz or Ryan Mulvey by telephone at (202) 499-4232, or by e-mail at [stephen.schwartz@causeofaction.org](mailto:stephen.schwartz@causeofaction.org) or [ryan.mulvey@causeofaction.org](mailto:ryan.mulvey@causeofaction.org). Thank you for your attention to this matter.

**CAUSE OF ACTION INSTITUTE**

BY:

  
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STEPHEN S. SCHWARTZ  
COUNSEL