



February 15, 2017

Department of Health and Human Services
Freedom of Information Officer
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, D.C. 20201

Centers for Medicare and Medicaid Services
CMS FOIA Officer
Centers for Medicare & Medicaid Services Mailstop
N2-20-16 7500 Security Boulevard
Baltimore, MD 21244

Re: Freedom of Information Act Request

Dear Official:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, The Protect Democracy Project hereby requests that your office produce within 20 business days the following records (see below for clarity on the types of records sought):

- (1) All formal and informal documents, including but not limited to email communications and memoranda, between and among employees of the Department of Health and Human Services (“HHS”) Office of the Secretary and/or Office of Public Affairs and/or the Centers for Medicare and Medicaid Services (“CMS”) Office of the Administrator and/or Office of Communications concerning the decision to discontinue advertising for healthcare.gov and/or enrollment in healthcare coverage. The timeframe for this request is January 20, 2017 through February 1, 2017.
- (2) All formal and informal documents, including but not limited to email communications and memoranda, between the HHS and/or CMS transition teams and the White House concerning the decision to discontinue advertising for healthcare.gov and/or enrollment in healthcare coverage. The timeframe for this request is January 20, 2017 through February 1, 2017.
- (3) All formal and informal documents, including but not limited to email communications and memoranda, between and among employees of the HHS Office of the Secretary

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and/or HHS Office of Public Affairs and/or CMS Office of the Administrator and/or CMS Office of Communications concerning the effect of the Trump Administration's decision to discontinue the advertising detailed above on enrollment numbers. The timeframe for this request is January 20, 2017 through February 1, 2017.

- (4) All formal and informal documents, including but not limited to email communications and memoranda, between and among employees of the HHS Office of Public Affairs and/or CMS Offices of Communications concerning the article published by *Politico* on January 26, 2017 entitled, "Trump White House Abruptly Halts Obamacare Ads."
- (5) All formal and informal documents, including but not limited to email communications and memoranda, between and among employees in the HHS Office of the Secretary and/or HHS Office of Public Affairs and/or CMS Office of the Administrator and/or CMS Office of Communications concerning the number of people who enrolled in healthcare coverage after President Trump took office, which CMS made public on February 3, 2017. CMS reported that approximately 200,000 Americans signed up for coverage in the final two weeks of the open enrollment period. The time-frame for this request is January 20, 2017 through February 6, 2017.
- (6) All formal and informal documents, including but not limited to email communications and memoranda, between HHS and/or CMS employees and the White House concerning the number of people who enrolled in healthcare coverage after President Trump took office, which CMS made public on February 3, 2017. CMS reported that approximately 200,000 Americans signed up for coverage in the final two weeks of the open enrollment period. The time-frame for this request is January 20, 2017 through February 6, 2017.

FEE WAIVER

FOIA provides that a waiver of fees associated with a request is waived 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 U.S.C 552(1)(4)(A)(iii). The core mission of The Protect Democracy Project, a new organization awaiting 501(c)(3) status, is to inform public understanding on operations and activities of the government. This request is submitted in consort with the organization's mission to gather and disseminate information that is likely to

contribute significantly to the public understanding of executive branch operations and activities. The Protect Democracy Project has no commercial interest, and releasing the contents of the requested documents for public consumption is not in the financial interest of the organization.

In addition to satisfying requirements for a waiver of fees associated with the search and processing of records, The Protect Democracy Project is entitled to a waiver in duplication costs. Federal law mandates a waiver of document duplication costs for requesters that qualify as a representative of the news media. The Protect Democracy Project, a new organization formed in December 2016, emerges in the tradition of 501(c)(3) good government organizations that qualify under FOIA as “news media organizations.” Like these organizations, the purpose of The Protect Democracy Project is to “gather information of potential interest to a segment of the public, use its editorial skills to turn the raw materials into distinct work, and distribute that work to an audience.” Cf *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). We intend to give the public access to documents transmitted via FOIA on our forthcoming website, www.protectdemocracyproject.org.

RESPONSIVE RECORDS

We ask that all types of records and all record systems be searched to discover records responsive to our request. We seek records in all medium and format. This includes, but is not limited to: agendas, manifests, calendars, schedules, notes, and any prepared documentation for meetings, calls, tele-conferences, or otherwise discussions responsive to our request; voicemails; e-mails; e-mail attachments; talking points; faxes; facsimiles; training documents and guides; table of contents and content of binders; documents pertaining to instruction and coordination of

couriers; and any other preservation of work product. We ask that you search all system of record, including electronic, in use at your agency. The Protect Democracy Project would prefer records in electronic format, saved as PDF documents, and transmitted via email or CD-rom.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, we ask that you provide an index of those records at the time you transmit all other responsive records. In the index, please include a description of the record and the reason for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, we ask for the remainder of the record to be provided. 5 U.S.C. 552(b).

Given the 20-day statutory deadline, we hope to be as helpful as possible in clarifying or answering questions about our request. Please contact us at FOIA.protectdemocracy@gmail.com or (404) 819-1630 if you require any additional information. We appreciate your cooperation, and look forward to hearing from you very soon.

Sincerely,



Ian Bassin
Executive Director
The Protect Democracy Project