

ATTACHMENT A



January 5, 2017

VIA Electronic Delivery

U.S. General Services Administration
FOIA Requester Service Center (H1F)
1800 F Street, NW, Room 7308
Washington, DC 20405-0001
Fax: (202) 501-2727

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552 *et seq.* and the General Services Administration (GSA) FOIA regulations at 41 C.F.R. Part 105-60, the Democracy Forward Foundation submits this request for records.

Background

Federal law, such as the Pre-Election Presidential Transition Act of 2010 as well as the Presidential Transition Act of 1963 and its amendments, establishes government-provided services, facilitated by GSA, available to eligible and elected Presidential and Vice Presidential candidates, including hardware and e-mail systems.¹

To prepare an orderly transition of government, President Donald J. Trump and Vice President Michael R. Pence availed themselves and their team of these services during the 2016 election cycle and post-election transition period through March 31, 2017. Representatives of the Transition Team signed memoranda of understanding to this effect.²

Transition Team members made use of government issued “ptt.gov” email addresses,³ and GSA currently maintains the emails on a server under its control.⁴ As part of the transition, GSA

¹ *See, e.g.*, 3 U.S.C. § 102 note (providing for computer and communications services).

² <https://www.documentcloud.org/documents/4110103-GSA-Memorandum-of-Understanding-with-Trump.html>.

³ <https://thinkprogress.org/trump-attack-on-mueller-not-going-well-9ec582859e39/>.

⁴

<http://www.businessinsider.com/trump-lawyer-says-he-did-not-confront-mueller-before-complaining-about-him-to-congress-2017-12>.

informed the Transition Team that—like other government-issued email and hardware—there could be monitoring and auditing, and “Therefore, no expectation of privacy can be assumed.”⁵

Records Requested

In an effort to understand, and explain to the public, the transition of government between administrations Democracy Forward Foundation requests that GSA produce the following within twenty (20) business days:

- Any and all correspondence, including attachments, to or from “ptt.gov” email addresses associated with Rick Dearborn, Mike Pence, Michael Flynn, Rudy Giuliani, Chris Christie, Jeff Sessions, Ben Carson, K.T. McFarland, Pam Bondi, Jared Kushner, Rebekah Mercer, Steven Mnuchin, Devin Nunes, Anthony Scaramucci, Peter Thiel, Reince Priebus, Steve Bannon, Donald Trump Jr., Eric Trump, Ivanka Trump, and Omarosa Manigault on any server controlled by the General Services Administration .

The time period for this search is from July 24, 2016 to March 31, 2017.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

5

https://www.buzzfeed.com/chrisgeidner/the-trump-campaign-claims-a-federal-office-illegally-turned?utm_term=.so0MvbYQp#.eoDDB4QxA.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Fee Waiver Requested

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 41 C.F.R. § 105-60.305-13, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request.

The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of these operations by the public in a significant way. Moreover, the request is for non-commercial purposes.

Pursuant to 41 C.F.R. § 105-60.305-13(a), “disclosure of the information would contribute significantly to public's understanding of the operations or activities of the Government.” The request pertains to “direct and clear” operations and activities of the federal government. *Id.* at § 105-60.305-13(a)(1). The release of the records is “likely to contribute” to the public understanding of the federal government, as the records are not at present “already in the public domain.” *Id.* at 105-60.305-13(a)(2). The requested records will shed new light on the government’s activities.

This request is not “primarily in the commercial interest of the requester.” *Id.* at § 105-60.305-13(a). Democracy Forward Foundation does not have a “commercial interest that would be furthered by the requested disclosure.” *Id.* at § 105-60.305-13(a)(4). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). The documents would “contribut[e] to [the] public’s understanding rather than personal benefit to be derived by the requester,” as Democracy Forward Foundation “is in a position to contribute to [the] public’s understanding through the requested disclosure.” *Id.* at § 105-60.305-13(a)(3). A core mission of Democracy Forward Foundation is to educate the public about improper government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets.⁶

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

⁶ See www.democracyforward.org;
<https://twitter.com/DemocracyFwd>.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Robin Thurston as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Robin Thurston
Democracy Forward Foundation