

EXHIBIT A



Planned Parenthood
Federation of America

**Public Policy
Litigation and Law**
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September 25, 2018

VIA HHS FOIA SUBMISSION SITE

Michael Marquis, Freedom of Information Officer
U.S. Department of Health and Human Services
Office of the Assistant Secretary for Health
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, DC 20201

Re: Freedom of Information Act Request

Dear Mr. Marquis:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, and the U.S. Department of Health and Human Services' (HHS) implementing regulations, 45 C.F.R. § 5.1 *et seq.*, I make the following request for records on behalf of Planned Parenthood Federation of America (PPFA).

This request pertains to Funding Opportunity Number PA-FPH-18-001, entitled Announcement of Anticipated Availability of Funds for Family Planning Services Grants (FOA), posted on February 23, 2018. As a trusted women's health care provider and advocate, including a provider in the Title X program—serving more than 40% of the program's patients—Planned Parenthood seeks information and transparency on funding decisions related to the Title X program.

Request for Records

I request the following records within twenty business days—

From the Department of Health and Human Services Office of the Assistant Secretary for Health (OASH) and the HHS Office of Population Affairs (OPA):

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1. **A copy of all non-binding letters of intent submitted in response to Funding Opportunity Number PA-FPH-18-001.** Alternatively, a comprehensive list of the identities of all persons or entities that submitted a non-binding letter of intent in response to Funding Opportunity Number PA-FPH-18-001.
2. **A copy of any record, excluding applications, listing the identities of applicants that submitted an application in response to Funding Opportunity Number PA-FPH-18-001.**
3. **A copy of any records that include the identities of applicants that HHS determined were ineligible or otherwise disqualified for funding under Funding Opportunity Number PA-FPH-18-001.**
4. **A copy of any records, excluding applications, that include the basis for a determination of an applicant's ineligibility or non-funding under Funding Opportunity Number PA-FPH-18-001.**
5. **A copy of any records that include the identities of applicants that HHS rejected or did not approve for funding under Funding Opportunity Number PA-FPH-18-001.**
6. **A copy of any records that include the scores given to each application submitted in response to Funding Opportunity Number PA-FPH-18-001.**
7. **A copy of any records that include the names of members of the independent review panels tasked with evaluating applications submitted in response to Funding Opportunity Number PA-FPH-18-001.**
8. **A copy of all records that include the reviewers' scores, scoring decisions, or comments related to applications submitted in response to Funding Opportunity Number PA-FPH-18-001.**
9. **A copy of all records, except for applications but including scoring criteria and guidance, given to members of the independent review panels tasked with evaluating applications submitted in response to Funding Opportunity Number PA-FPH-18-001.**

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10. **A copy of Deputy Assistant Secretary for Population Affairs Diane Foley's calendar, including any calendar maintained for her, since her appointment in May 2018.** Please include all calendar entries, including the names of invited participants and any attachments.
11. **A copy of all meeting agenda, notes, minutes, recordings and any other records of and from any meetings between Deputy Assistant Secretary for Population Affairs Diane Foley and any person associated with Live Action, including Lila Rose, or Susan B. Anthony List.**
12. **A copy of communications, including email communications, between Deputy Assistant Secretary for Population Affairs Diane Foley and any person associated with Live Action, including Lila Rose, or Susan B. Anthony List.**

From the Department of Health and Human Services:

13. **All visitor logs reflecting Lila Rose entering any HHS office building.**

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, memoranda, 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.

Please search all records regarding agency business. You may not exclude searches of files or emails in the personal custody of your officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files are subject to the Federal Records Act and FOIA.

PPFA expressly does not request any confidential or proprietary information, and requests that you withhold such information. In addition, PPFA does not seek the applications or supporting materials submitted by any applicants in response to Funding Opportunity Number PA-FPH-18-001.

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To ensure that this request is properly construed, searches are conducted in an adequate but efficient manner, and extraneous costs are not incurred, I welcome an opportunity to discuss this request with you before you undertake your search or incur unnecessary costs. I am available to work with you to craft appropriate search terms.

Vaughn Index

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.” 5 U.S.C.

§ 552(a)(8)(A)(i). If it is your position that any portion of the requested records is exempt from disclosure, I request that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974).¹

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable nonexempt portions of the requested records. If it is your position that a document contains nonexempt segments, but that those nonexempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is nonexempt, and how the material is dispersed throughout the document. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54, PFA requests a waiver of fees associated with processing this request for records. Disclosure of the requested information is in the public interest as it is likely to contribute significantly to public understanding of government operations and activities. The disclosure of

¹ As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity to permit a reasoned judgment as to whether the material is actually exempt under FOIA. Moreover, the *Vaughn* index must describe each document or portion thereof withheld, and for each withholding it must discuss the consequences of disclosing the sought-after information. Further, the withholding agency must supply a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.

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information sought under this request will document and reveal the operations of the federal government.

In addition, this request is primarily and fundamentally not for commercial purposes, but rather the primary interest is in public disclosure of responsive records. As a 501(c)(3) nonprofit, PPFA does not have a commercial purpose and the release of the information requested is not in PPFA's financial interest. Planned Parenthood is the nation's leading women's health care provider and advocate and a trusted, nonprofit source of primary and preventive care for women, men, and young people in communities across the United States. Each year, Planned Parenthood's more than 600 health centers provide affordable birth control, lifesaving cancer screenings, testing and treatment for sexually transmitted diseases, and other essential care to 2.4 million patients. The majority of Planned Parenthood patients have incomes at or below 150 percent of the Federal Poverty Level. Since the program's inception almost half a century ago, Planned Parenthood has played a central role in fulfilling Title X's mission. Planned Parenthood health centers serve more than 40% of the program's patients annually. Given our extensive experience with Title X, we are well suited to evaluate policies and decisions affecting the Title X program and educate the public about such policies or decisions. Accordingly, PPFA qualifies for a fee waiver.

Conclusion

I look forward to working with you on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact me at Richard.Muniz@ppfa.org. Also, if you determine any fees will be charged, please contact me immediately upon making such a determination.

Sincerely,

Richard Muniz
Staff Attorney