

FOIA-2017-00516

**The Protect -
Democracy
Project**

Federal Trade Commission
Received

February 15, 2017

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FOIA BRANCH
GENERAL COUNSEL

Freedom of Information Act Request
Office of General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: FOIA

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 correspondence received since November 9, 2016 by anyone employed by the Federal Trade Commission from President-Elect Trump or President Trump or anyone purporting to represent Mr. Trump or his staff or any representative of the Trump transition team or any representative of the Trump White House (including but not limited to the following people, hereinafter referred to as the "identified parties": Michael Pence, Jared Kushner, Stephen Bannon, Stephen Miller, Kellyanne Conway, Sean Spicer, Andrew Davis, Brian Benczkowski, Chad Mizelle, David Hinbee, Edmund Searby, Greg Katsas, J. Patrick Rowan, James Burnham, Jessie Liu, John Moran, Lizette Benedi Herraiz, Michael Battle, Nicholas Matich, Ronald Tenpas, Stefani Carter, Steven Engel, Thomas Wheeler, William Cleveland or Zina Bash) relating to or referring to any case or matter under consideration by or pending in the Federal Trade Commission, including but not limited to any litigation brought by the U.S. Federal Trade Commission;
- 2) All memoranda prepared by or received by anyone employed in the Federal Trade Commission reflecting, discussing, or relating to any communication from President-Elect Trump or President Trump or anyone purporting to represent Mr. Trump or his transition team or his White House (including but not limited to the identified parties) relating to or referring to any case or matter under consideration or pending in the Federal Trade Commission, including but not limited to any litigation brought by the U.S. Federal Trade Commission;
- 3) All correspondence or memoranda prepared by anyone employed by the Federal Trade Commission in response to any communication received from any representative of the Trump Administration or its transition team (including but not limited to the identified parties) relating to any case or matter under consideration or

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- pending in the Federal Trade Commission, including but not limited to any litigation brought by the Federal Trade Commission;
- 4) All correspondence or memoranda from anyone purporting to represent the Trump Administration or its transition team (including but not limited to the identified parties) requesting or directing any change in policies, practices, procedures or priorities of the Federal Trade Commission, including but not limited to policies or procedures for approving the opening of an investigation or terminating a pending investigation;
 - 5) All correspondence or memoranda, prepared since November 9, 2016, by anyone employed by the Federal Trade Commission reflecting or relating to any change or proposed change in policies, procedures practices or priorities of the Division in connection with the enforcement of the antitrust laws of the United States;
 - 6) All formal and informal documents, memoranda and any other form of guidance issued or made available to Federal Trade Commission lawyers and staff, since November 9, 2016, relating to the enforcement policies, procedures, practices or priorities of the Federal Trade Commission;
 - 7) All correspondence, memoranda or other written communications sent by any representative of the Federal Trade Commission since November 9, 2016 to any United States Attorney's office, any federal, state or local agency or any law enforcement investigative agency relating to any change or modification of the policies, procedures, practices or priorities of the enforcement of the antitrust laws of the United States;
 - 8) All correspondence, memoranda or other written communications by or on behalf of any representative of the Federal Trade Commission to, or received from, any Member of Congress or any staff employed by the Congress since November 9, 2016, relating to or referring to any case, matter or policy of the Federal Trade Commission;
 - 9) All memoranda or other written documents reflecting or relating to any change in personnel of the Federal Trade Commission since November 9, 2016, including hirings, resignations, terminations, promotions, demotions or other changes in status of employees;
 - 10) All motions, court filings or correspondence with courts or opposing counsel in any pending litigation since November 9, 2016 reflecting or relating to any change in position or argument by the Federal Trade Commission, including but not limited to dismissing or modifying any complaint then on file.

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

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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

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