



February 2, 2018

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

Via U.S. Mail, Email, and Online Request Form

**Re: Freedom of Information Request
(Fee Waiver/Limitation Requested)**

Dear General Services Administration FOIA Officials,

Campaign Legal Center (“CLC”) submits this Freedom of Information Act (“FOIA”) request for all General Services Administration (“GSA”) records pertaining to funding and expenditures for the Presidential Advisory Commission on Election Integrity (the “Commission”), including receipts, reimbursement requests, and budgets.

Background

Last month, President Trump issued an executive order terminating the Presidential Advisory Commission on Election Integrity.¹ Trump stated, “Rather than engage in endless legal battles at taxpayer expense, today I signed an executive order to dissolve the commission, and have asked the Department of Homeland Security (“DHS”) to review these issues and determine next courses of action.”²

¹ Executive Order on the Termination of Presidential Advisory Commission on Election Integrity (Jan. 3, 2018), <https://www.whitehouse.gov/presidential-actions/executive-order-termination-presidential-advisory-commission-election-integrity/>.

² *Statement by the Press Secretary on the Presidential Advisory Commission on Election*, The White House (Jan. 3, 2018), <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-presidential-advisory-commission-election-integrity/> (emphasis added); Michael Tackett & Michael Wines, *Trump Disbands Commission on Voter Fraud*, N.Y. Times (Jan. 3, 2018), <https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html> (emphasis added).

The Commission owes its inception to the numerous and unsubstantiated³ voter fraud allegations made by President Trump. During the 2016 presidential campaign, President Trump suggested that the election would be “rigged,” that “cheating” could steal the election, and that our elections are marred by widespread fraud.⁴ After his election, Mr. Trump continued his false claims of rampant voter fraud. On November 27, 2016, he asserted—without evidence—that he “won the popular vote if you deduct the millions of people who voted illegally.”⁵ After President Trump was sworn in as President, these claims continued. On February 5, 2017, in interview with Bill O’Reilly, President Trump suggested that he would create a commission to conduct an “investigation” into the alleged voter fraud and would appoint Vice President Pence to head that commission.⁶

On May 11, 2017, President Trump announced the creation of the Commission.⁷ In the Commission’s charter, the GSA was named as “agency responsible for provision support.”⁸ In this role, GSA was tasked with “provid[ing] the Commission with such administrative services, funds, facilities, staff, equipment, and other support services as may be necessary to carry out its mission.”⁹ The GSA was also tasked with providing an officer who “will approve or call all Commission meetings, prepare or approve all meeting agendas, attend all

³ See *Republicans and Democrats Agree There is No Widespread Voter Fraud*, Campaign Legal Center Blog (Jan. 25, 2017), <http://www.campaignlegalcenter.org/news/blog/republicans-and-democrats-agree-there-no-widespread-voter-fraud> (collecting studies demonstrating the rarity of voter fraud and statements by officials on both sides of the aisle agreeing that voter fraud is not a widespread problem).

⁴ See, e.g., Greg Stohr, *Trump Says Polling-Place Cheating is Leading to ‘Rigged’ Election*, Bloomberg Politics (Oct. 16, 2016), <https://www.bloomberg.com/politics/articles/2016-10-16/trump-surrogates-say-democrats-cheating-in-urban-areas-voting>; Edward Helmore, *Trump recruits ‘election observers’ as he warns of potential voter fraud*, The Guardian (Aug. 13, 2016), <https://www.theguardian.com/us-news/2016/aug/13/trump-recruits-election-observers-voter-intimidation-fears>.

⁵ Donald Trump, Twitter (Nov. 27, 2016, 1:30 PM EST), <https://twitter.com/realDonaldTrump/status/802972944532209664>; see also *id.* (Nov. 27, 2016, 5:31 PM EST) <https://twitter.com/realDonaldTrump/status/803033642545115140> (alleging “serious voter fraud in Virginia, New Hampshire and California” without evidence); *id.* (Nov. 28, 2016, 9:14 PM EST) (Nov. 28, 2016, 9:19 PM EST) (Nov. 28, 2016, 9:21 PM EST) (retweeting supporters’ criticism of reporters for reporting on Mr. Trump’s debunked voter fraud claims), <https://twitter.com/realDonaldTrump/status/803421742815412224>, <https://twitter.com/realDonaldTrump/status/803423203620245504>, <https://twitter.com/realDonaldTrump/status/803423503978532864>.

⁶ Alan Yuhas, *Pence to head commission investigating baseless voter fraud claim, Trump says*, Guardian (Feb. 5, 2017), <https://www.theguardian.com/us-news/2017/feb/05/donald-trump-mike-pence-commission-voter-fraud>.

⁷ *President Announces Formation of Bipartisan Presidential Commission on Election Integrity*, The White House (May 11, 2017), <https://www.whitehouse.gov/the-press-office/2017/05/11/president-announces-formation-bipartisan-presidential-commission>.

⁸ Presidential Advisory Commission on Election Integrity Charter, <https://www.whitehouse.gov/sites/whitehouse.gov/files/docs/commission-charter.pdf>.

⁹ *Id.*

Commission meetings and any subcommittee meetings, and adjourn any meeting when the DFO determines adjournment to be in the public interest.”¹⁰

The Commission was created on a lark to substantiate President Trump’s unfounded claims, failed to operate according to legal requirements, produced no known findings, and was terminated within less than a year. The public deserves to know how much of taxpayer resources were spent on this failed Commission.

Request

CLC requests copies of the following documents pursuant to the Freedom of Information Act, 5 U.S.C. §552.

For the time period from May 11, 2017 to the present, any and all documents—including reimbursement requests, pay orders, travel vouchers, memorandum, contracts, or receipts—within the following categories:

- Any documents related to the funding and expenditures of the Commission;
- Any documents related to any provision to or acquisition of any equipment of or for the Commission;
- Any document pertaining to facilities, staff, equipment or other support services provided to the Commission;
- Any document related to any reimbursements made to the Commission, the Commission’s members, or other government staff who worked on behalf of the Commission;
- Any document related to requests for funds by the Commission or its members or staff;
- Any budget documents for or related to the Commission.

Application for Waiver or Limitation of Fees

CLC requests a waiver of document search, review, and duplication fees on the grounds that disclosure of the requested records is in the public interest and because disclosure 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(a)(4)(A)(iii). The requested records will provide the public with critical information about any ongoing investigations into our democratic voting systems and any alleged voter fraud or voting irregularities.

As noted above, CLC is not filing this request to further its commercial interest. A fee waiver would further Congress’ intent in providing for waivers for noncommercial requesters. *See Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312

¹⁰ *Id.*

(D.C. Cir. 2003) (“Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.”).

CLC also requests a fee waiver on the grounds that CLC qualifies as a “representative of the news media” and the records are not sought for commercial use. 5 U.S.C. § 552(a)(4)(A)(ii)(II). As noted above, CLC meets the statutory and regulatory definitions of a “representative of the news media” because it is an “entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii)(III).

The D.C. Circuit has held that a requester may qualify as a news media entity if it “distribute[s] [its] work’ by issuing press releases to media outlets in order to reach the public indirectly.” *Cause of Action v. FTC*, 799 F.3d 1108, 1125-26 (D.C. Cir. 2015). Courts have found that other organizations with functionally similar missions engaged in similar public education activities qualify as “representative[s] of the news media,” even if engaged in litigation or other advocacy beyond educating the public about the operations of government. *See, e.g., id.* at 1121-25 (finding a public interest advocacy organization that comments to other media outlets about documents it obtains under FOIA a news media requester); *Elec. Privacy Info. Ctr. v. DOD*, 241 F. Supp. 2d 5, 10-15 (D.D.C. 2003) (finding nonprofit public interest group that published a biweekly email newsletter a news media requester); *Judicial Watch, Inc. v. DOJ*, 133 F. Supp. 2d 52, 53-54 (D.D.C. 2000) (finding “public interest law firm” Judicial Watch a news media requester).

“It is critical that the phrase ‘representative of the news media’ be interpreted broadly if the act is to work as expected, . . . In fact, *any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a ‘representative of the news media.’*” 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986), cited in *Nat’l Sec. Archive v. U.S. Dep’t of Def.*, 880 F.2d 1381, 1386 (D.C. Cir. 1989). Given the foregoing, there can be no doubt that CLC performs important functions as a “representative of the news media,” as defined by the relevant statute, regulations and case law.

In the event the fee waiver is not granted, CLC may not be charged for the first two hours of search time, or for the first hundred pages of duplication. Please contact me and advise me of the cost of this request if processing costs exceed \$100. You can contact me at 202-856-7911 or at dlang@campaignlegalcenter.org.

Withholding of Documents

If GSA determines that any of the requested documents are exempt from disclosure, please provide a *Vaughn* index describing any such document(s) or parts of document(s) withheld; and the justification for withholding any document(s) or any part of any document(s), including the specific exemption claimed and the consequences of providing the withheld information. *See Vaughn v. Rosen*, 484 F.2d 820, 827 (D.C. Cir. 1973); *Mead Data Central, Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977) (“we require that when an agency seeks to withhold information it must provide 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”); *King v. Dep’t of Justice*, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (“A withholding agency must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information”). For any document or record for which an exemption is claimed, please disclose any reasonably segregable non-exempt portion of the requested document or record. 5 U.S.C. § 552(b).

Conclusion

Thank you for your prompt attention to this matter. CLC expects a response to this request within twenty working days, as required by statute. 5 U.S.C. § 552(a)(6)(A). Where possible, please send the requested record electronically to dlang@campaignlegalcenter.org. Please furnish all applicable paper records to: Danielle Lang, Campaign Legal Center, 1411 K Street NW, Suite 1400, Washington, DC 20005. If you have any questions, please contact me by email or by telephone at 202-856-7911.

Sincerely,

s/ Danielle M. Lang

Danielle Lang
Senior Counsel*—Voting Rights & Redistricting
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*Admitted in New York and California only; practice limited to U.S. courts and federal agencies

