Green, LindaE

From: Matthew Corley <mcorley@citizensforethics.org>
Sent: Friday, September 08, 2017 3:06 PM
To: FOIA HQ
Subject: Re: EPA FOIA request from CREW
Attachments: EPA FOIA Request Alaska Grants 9-6-17.pdf

Hello,

Attached is another copy of my FOIA request, which should hopefully be fully printable.

Matt Corley

On Wed, Sep 6, 2017 at 2:14 PM, Matthew Corley <mcorley@citizensforethics.org> wrote:

Hello,

Please find attached to this e-mail a request for records under the Freedom of Information Act.

If you have any questions, please do not hesitate to contact me.

Thank you,

Matt Corley

Chief Investigator

Citizens for Responsibility and Ethics in Washington

455 Massachusetts Avenue NW, 6th Floor

Washington, D.C. 20001

202.408.5565

September 6, 2017

BY E-Mail: hq.foia@epa.gov

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and U.S. Environmental Protection Agency ("EPA") regulations.

Specifically, CREW requests:

(1) Copies of all communications related to grants for EPA Region 10 between any employee of the Executive Office of the President and EPA Administrator Scott Pruitt and/or Chief of Staff to the Administrator Ryan Jackson, White House Liaison Charles Munoz, and Deputy White House Liaison Hayley Ford between July 24, 2017 and August 15, 2017; and

(2) Copies of all communications by anyone in the Office of the Administrator related to grants for EPA Region 10 on July 28, 2017; and

(3) Copies of all communications that relate or refer to health care by Administrator Pruitt and/or Mr. Jackson, Mr. Munoz, Ms. Ford, Deputy Associate Administrator for Public Affairs Elizabeth Bowman, and Deputy Associate Administrator for Public Affairs John Konkus between July 24, 2017 and July 29, 2017; and

(4) Copies of all communications that relate or refer to Alaska and/or Sen. Lisa Murkowski (R-AK) by Administrator Pruitt and/or Mr. Jackson, Mr. Munoz, Ms. Ford, Deputy Associate Administrator for Public Affairs Elizabeth Bowman, and Deputy Associate Administrator for Public Affairs John Konkus between July 24, 2017 and July 29, 2017.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages,

voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as emails to which the subjects of this request were cc'ed or bcc'ed.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and EPA regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g.*, *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On July 25, 2017, Sen. Murkowski was one of two Republican senators to vote against a motion to proceed to debate on legislation to repeal the Affordable Care Act, a priority of the Trump administration.[1] The next morning, President Trump criticized Sen. Murkowski on Twitter, writing, "Senator @lisamurkowski of the Great State of Alaska really let the Republicans, and our country, down yesterday. Too bad!"[2] According to *Alaska Dispatch News*, later that day Interior Secretary Ryan Zinke placed phone calls to both Sen. Murkowski and Sen. Dan Sullivan (R-AK) "letting them know the vote had put Alaska's future with the administration in jeopardy."[3] Sen. Sullivan told the newspaper that Secretary Zinke's phone call contained a "troubling message" and that he feared "the strong economic growth, pro-energy, pro-mining, pro-jobs and personnel from Alaska who are part of those policies are going to stop."[4] Sen. Sullivan, who said he had spoken to Sen. Murkowski about Secretary Zinke's phone calls, said it was clear that Secretary Zinke's message was in response to Sen. Murkowski's procedural vote on the health care legislation.

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[1] Liz Stark, Vote Tally: How Each Senator Voted on GOP Health Care Motion, *CNN*, July 25, 2017, *available at* http://www.cnn.com/2017/07/25/politics/vote-tally-senate-health-care/index.html.
[2] *See* https://twitter.com/realDonaldTrump/status/890168183079960576.
[3] Erica Martinson, Trump Administration Threatens Retribution Against Alaska over Murkowski health Votes, *Alaska Dispatch News*, July 27, 2017, *available at* https://www.adn.com/politics/2017/07/26/trump-administration-signals-that-murkowskis-health-care-vote-could-have-energy-repercussions-for-alaska/.
[4] *Id.*

Reporting by the *Washington Post* suggests the EPA may have also been used to pressure Sen. Murkowski on health care. On July 28, 2017, Sen. Murkowski, along with two other Republican senators, voted against the legislation to repeal the Affordable Care Act, effectively ending the legislative effort to repeal the law.[5] On that same day, "EPA staffers were instructed without any explanation to halt all grants to the regional office that covers Alaska, Washington, Oregon and Idaho. That hold was quickly narrowed just to Alaska and remained in place for nearly two weeks."[6] The decision to place a hold on grants to Alaska was reportedly considered so unusual that it prompted consultation with EPA lawyers, according to two officials at the agency who spoke to the *Washington Post*.[7] Ms. Bowman, acting as an EPA spokesperson, denied to the *Washington Post* that Alaska had been singled out.[8]

The requested records would shed light on the purpose of the temporary hold on EPA's Alaska grants, including whether retribution against Alaska's interests due to Sen. Murkowski's health care vote was a factor. The records would also increase public knowledge about whether EPA resources are being used for purposes unrelated to EPA's mission.[9]

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

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[5] Dino Grandoni and Juliet Eilperin, Murkowski Not Swayed by Intense Pressure from Trump Administration on Health Care, *Washington Post*, July 28, 2017, *available at* https://www.washingtonpost.com/politics/murkowski-not-swayed-by-intense-pressure-from-trump-administration-on-health-care/2017/07/28/eb6c9d16-73d8-11e7-8839-ec48ec4cae25_story.html?utm_term=.8d23933b0393.

[6] Juliet Eilperin, EPA Now Requires Political Aide's Sign-Off for Agency Awards, Grant Applications, *Washington Post*, Sept. 4, 2017, *available at* https://www.washingtonpost.com/politics/epa-now-requires-political-aides-sign-off-for-agency-awards-grant-applications/2017/09/04/2fd707a0-88fd-11e7-a94f-3139abce39f5_story.html?utm_term=.94c69bd0f097.

[7] *Id.*

[8] *Id.*

[9] *See* https://www.epa.gov/aboutepa/our-mission-and-what-we-do.

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, and those documents have been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or mcorley@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me either at mcorley@citizensforethics.org or at Matthew Corley, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,

Matthew Corley
Chief Investigator