



November 16, 2017

VIA ELECTRONIC MAIL

Dionne Hardy
FOIA Officer, Office of Management and Budget
725 17th Street, NW,
9th Floor
Washington, DC 20503
(202) 395-3642
OMBFOIA@omb.eop.gov

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Democracy Forward Foundation makes this request pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq.* and the Office of Management and Budget ("OMB") FOIA regulations at 5 C.F.R. Part 1303.

Background

During President Trump's campaign, his daughter, Ivanka Trump, presented herself as a champion for women's rights and equal pay. In her speech at the 2016 Republican National Convention, speaking about her father, she said, "[h]e will fight for equal pay for equal work, and I will fight for this too, right along side of him."¹ In her role as Assistant to the President, Ivanka Trump claims to support equal pay for women. On Equal Pay Day, she tweeted, "#EqualPayDay is a reminder that women deserve equal pay for equal work. We must work to close the gender pay gap!" and posted graphics on Instagram illustrating the pay gap.²

Despite her promises that President Trump would act to address the pay gap, the Trump Administration has done the exact opposite and rolled back a rule that the government itself determined is "necessary" to combat pay discrimination.³

Specifically, in September 2016, the U.S. Equal Employment Opportunity Commission (EEOC) announced that it would begin collecting pay data by gender, race, and ethnicity from companies with 100

¹ <http://time.com/4417579/republican-convention-ivanka-trump-transcript/>

² <https://www.teenvogue.com/story/ivanka-trump-equal-pay-day>

³ Agency Information Collection Activities: Notice of Submission for OMB Review, 81 Fed. Reg. 45479, 45483 (July 14, 2016).

or more employees as part the companies's annually filed EEO-1 forms. The EEOC added the collection of pay data to a long-standing obligation of companies to report on the demographic makeup of their workforce after a robust administrative process aimed at identifying how to improve the enforcement of federal laws prohibiting pay discrimination. The new reporting obligations were set to take effect in March, 2018.⁴

On August 29, 2017, without justification, the Trump Administration reversed course on closing the wage gap, and illegally and indefinitely stayed the pay data reporting requirement.⁵ Instead of standing up for working women, Ivanka Trump supported this decision, putting out a statement saying:

“Ultimately, while I believe the intention was good and agree that pay transparency is important, the proposed policy would not yield the intended results. We look forward to continuing to work with EEOC, OMB, Congress and all relevant stakeholders on robust policies aimed at eliminating the gender wage gap.”⁶

Records Requested

In an effort to better understand, and explain to the public, the role that Ivanka Trump played in rolling back critical protections that would combat pay discrimination and close the wage gap, Democracy Forward Foundation requests that the Office of Management and Budget produce the following records within twenty (20) business days:

Please note: In light of news reports that Ivanka Trump has used her personal email to conduct official government business, please search for and include any correspondence sent from personal email accounts, including but not limited to any associated with “ijkfamily.com”

- (1) All correspondence between any OMB employee, including OMB communications staff, and the following individuals: Ivanka Trump, her staff, close associates, including but not limited to, Jared Kushner, Rachael Baitel, Julie Radford, Quellie Moorehead, Josh Raffel, Dina Powell, or any person responsible White House communications, related to the above-quoted statement by Ivanka Trump or related to plans for Ms. Trump to provide comment on the Administration's stay of the EEO-1 pay data collection.
- (2) All correspondence between any OMB employee and the following individuals: Ivanka Trump, Ms. Trump's staff, or close associates, including but not limited to, Jared Kushner, Rachael Baitel, Julie Radford, Quellie Moorehead, Josh Raffel, and Dina Powell, related to the decision to stay the EEO-1 pay data collection.
- (3) All records memorializing meetings or phone calls related to the EEO-1 pay data collection between Ivanka Trump or her staff and any OMB officials.

The time period for the request is February 20, 2017 to October 1, 2017. For speed of processing, a rolling release of records is requested.

⁴ <https://www.eeoc.gov/eeoc/newsroom/release/9-29-16.cfm>

⁵ https://www.reginfo.gov/public/jsp/Utilities/Review_and_Stay_Memo_for_EEOC.pdf

⁶ https://www.huffingtonpost.com/entry/ivanka-trump-white-house-equal-pay_us_59a6c33be4b063ae34da471f

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, attachments text messages, instant messages, slack 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.

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.

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 Request

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 5 C.F.R. § 1303.70, 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 5 C.F.R. § 1303.70, disclosure of the requested records is “likely to contribute significantly to public understanding of the operations or activities of the government.” The requested records will illuminate the role that Ms. Trump, an advisor to the President, played in the decision to stay the pay data collection, and thus the records have a direct and clear connection to federal government activity.

Democracy Forward Foundation intends to use its social media accounts and website⁷ to ensure that the records disclosed in response to this request will contribute to the understanding of a broad audience of persons interested in the subject. This contribution will be “significant[.]” *Id.*

This request is primarily for non-commercial purposes. *Id.* Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about improper federal government activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets.

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

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

Robin Thurston

⁷ See Democracy Forward Twitter, @DemocracyFWD; Democracy Forward Facebook, <https://www.facebook.com/DemocracyFwd/>; <https://democracyforward.org/work/democracy-forward-foundation-doc/>.