

EXHIBIT A



**DEMOCRACY
FORWARD
FOUNDATION**

P.O. Box 34553
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June 22, 2017

VIA ELECTRONIC MAIL

Dionne Hardy
FOIA Officer
Office of Management and Budget
Room 9026
725 17th Street, NW
Washington, DC 20503
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 FOIA regulations at 5 C.F.R. Part 1303.

On March 15, 2017, *Politico* reported that Joseph Grogan, formerly of Gilead Sciences, had been appointed by the Trump administration as director of health programs.¹ On June 16, 2017, *Politico* reported that Mr. Grogan “does not have a White House ethics waiver.”² The same day, *KHN* reported that Mr. Grogan leads a “Drug Pricing and Innovation Working Group.”³

Democracy Forward Foundation requests that the Office of Management and Budget produce the following within twenty (20) business days:

- (1) Any and all records that constitute any ethics waiver received by Mr. Grogan.
- (2) Any and all records that refer or relate to Mr. Grogan receiving an ethics waiver.

¹ Brianna Ehley, “Trump seeks conservative tweaks to GOP health bil [sic]” *POLITICO* (Mar. 15, 2017), available at <http://www.politico.com/tipsheets/politico-pulse/2017/03/trump-seeks-conservative-tweaks-to-gop-health-bil-2192>.

² Sarah Karlin-Smith, “Trump's drug price 'remedy' expected to be industry friendly,” *POLITICO* (June 16, 2017), available at <http://www.politico.com/story/2017/06/16/trump-drug-prices-industry-239659>.

³ Emily Kopp, “Exclusive: White House Task Force Echoes Pharma Proposals,” *KHN* (June 16, 2017), available at <http://khn.org/news/exclusive-white-house-task-force-echoes-pharma-proposals/>.

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- (3) Any and all records that refer or relate to guidance provided by any OMB official to Mr. Grogan regarding his ethical obligations or potential conflicts of interest created by Mr. Grogan's former employment at Gilead Sciences.
- (4) Any and all records provided to or generated by the Drug Pricing and Innovation Working Group.
- (5) Any and all records identifying the members of the Drug Pricing and Innovation Working Group.

The time period for this request is January 20, 2017 to the date the search is conducted.

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, 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.

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 addition, please note that under FACA, FOIA Exemption 5 is not generally applicable to material prepared by or for an advisory committee. Office of Legal Counsel, U.S. Department of Justice, 12 Op. O.L.C. 73 (Apr. 29, 1988). 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 nondisclosable 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.

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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).

Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3) and dedicated to educating the public about the operation of the federal government.⁴ As a nonprofit organization, we do not have a commercial interest in the records. The records we obtain from this request will be used to support our public education efforts, and we intend to disseminate publicly an analysis of those records. Dissemination of the information here requested is particularly important to ensure transparency of government. As FACA itself states: “the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees.” 5 U.S.C. App. 2 § 2(b)(5). We therefore request a waiver of fees for searching and duplicating records in response to this request under the exception at 5 U.S.C. § 552(a)(4)(A)(iii), which requires waiver of fees if the disclosure 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.” If our request for a waiver is denied, we are willing to pay all reasonable fees incurred for searching and duplicating records in responding to this request, up to \$250. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

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 Karianne Jones as soon as possible at foia@democracyforward.org or 202-448-9090.

We appreciate your assistance and look forward to your prompt response.

⁴ <https://www.democracyforward.org>.

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Sincerely,

/s/Karianne Jones

Karianne Jones
Democracy Forward Foundation