

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DEMOCRACY FORWARD FOUNDATION
1333 H Street, NW
Washington, DC 20005

Case No.

Plaintiff,

vs.

U.S. OFFICE OF MANAGEMENT AND
BUDGET
725 17th Street, NW
Washington, D.C. 20503,

Defendant.

COMPLAINT

Plaintiff Democracy Forward Foundation brings this action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), against Defendant Office of Management and Budget (“OMB” or “agency”) to compel it to produce documents that would shed light on the role Ivanka Trump had in the decision to suspend implementation of a rule that would have required companies to report pay data to the Equal Employment Opportunity Commission.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).
3. Because Defendant has failed to comply with the applicable time limit provisions in FOIA, Plaintiff is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(A)(6)(C)(i).

PARTIES

4. Plaintiff Democracy Forward Foundation is a not-for-profit organization incorporated under the laws of the District of Columbia and based in Washington, D.C. Plaintiff works to promote transparency and accountability in government, in part, by educating the public on government actions and policies.

5. Defendant OMB is a federal agency within the meaning of FOIA, 5 U.S.C. § 552(f)(1), that is headquartered in Washington, D.C., and has possession, custody, and control of records to which Plaintiff seeks access.

FACTUAL ALLEGATIONS

6. On November 16, 2017, Plaintiff submitted a FOIA request to OMB, seeking access to the following records for the time period of January 20, 2017 to the date the search is conducted:

- 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.
- 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.
- 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.

7. The November 16 FOIA request further sought a waiver of all fees associated with the request.

8. On November 16, 2017, OMB confirmed receipt of the FOIA request and assigned it a tracking number of 2018-063.

9. Notwithstanding the statutory obligation to make a determination on Plaintiff's request within 20 working days, OMB has made no determination on Plaintiff's request, nor has the agency produced any materials in response to that request.

10. Through OMB's failure to respond within the statutory time limit, Plaintiff has constructively exhausted its administrative remedies and seeks immediate judicial review.

CLAIM FOR RELIEF

Count One (Violation of FOIA, 5 U.S.C. § 552)

11. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.

12. By failing to respond to Plaintiff's request within the statutorily prescribed time limit, Defendant has violated its duties under 5 U.S.C. § 552, including but not limited to the duties to conduct a reasonable search for responsive records, to take reasonable steps to release all nonexempt information, and to not withhold responsive records.

WHEREFORE, Plaintiff prays that this Court:

1. Order Defendant to conduct a search for any and all responsive records to Plaintiff's FOIA request using search methods reasonably likely to lead to discovery of all responsive records;
2. Order Defendant to produce, by a date certain, any and all non-exempt responsive records and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. Enjoin Defendant from continuing to withhold any and all non-exempt responsive records;
4. Order Defendant to grant in full Plaintiff's request for a fee waiver;
5. Award Plaintiff its costs, attorneys' fees, and other disbursements for this action;

and

6. Grant any other relief this Court deems appropriate.

Dated: April 10, 2018

Respectfully submitted,

/s/ Karianne M. Jones

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