

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

DEMOCRACY FORWARD FOUNDATION  
1333 H St. NW  
Washington, DC 20005,

*Plaintiff,*

v.

Case No.

U.S. DEPARTMENT OF COMMERCE  
1401 Constitution Ave. NW  
Washington, DC 20230

U.S. DEPARTMENT OF THE TREASURY  
1500 Pennsylvania Ave. NW  
Washington, DC 20220,

*Defendants.*

**COMPLAINT**

1. Plaintiff Democracy Forward Foundation brings this action against Defendants the U.S. Department of Commerce (“Commerce”) and the U.S. Department of the Treasury (“Treasury”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (the “FOIA”). Defendants have failed to respond sufficiently to Plaintiff’s request for communications and records related to President Donald Trump’s Administration’s preparation for, and support of, the Saudi-U.S. CEO Forum, as well as other efforts by the Trump Administration to connect private investment firms with foreign investors.

2. The records Plaintiff has requested are of significant public importance. The substantial nexus between the Trump Administration, U.S. investment firms, and investment funds controlled by Saudi Arabia raises concerns that President Trump’s support for private investment in federal infrastructure projects is motivated by a desire to steer profits to, and make

connections for, investment firms that have been supportive of the President, his family, and their business interests.

3. The close-knit relationships that give rise to these concerns were on full display in May 2017, as President Trump elected to time his inaugural foreign visit as President with the first ever Saudi-U.S. CEO Forum in Riyadh.

4. Plaintiff submitted a FOIA request to Defendants Commerce and Treasury to examine, and educate the public about, the Trump Administration's role and motivations for generating investment opportunities and facilitating connections between U.S. investors and Saudi Arabia.

5. Defendants have failed to sufficiently respond to Plaintiff's request. Plaintiff therefore respectfully requests that the Court compel Defendants to comply with the FOIA.

#### **JURISDICTION AND VENUE**

6. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

7. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1).

#### **PARTIES**

8. 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.

9. Defendants Commerce and Treasury are federal agencies within the meaning of the FOIA, *see* 5 U.S.C. § 552(f)(1), that are headquartered in Washington, D.C. Defendants have possession, custody, and control of records to which Plaintiff seeks access.

## STATEMENT OF FACTS

10. President Trump visited Saudi Arabia for his inaugural foreign trip, choosing to do so at a time that would coincide with the Saudi-U.S. CEO Forum, a meeting in Riyadh that brought together representatives of the Saudi government and top executives from major U.S. investment firms to discuss opportunities for investment.

11. Among the more prominent deals announced at the forum was an agreement for Saudi Arabia's Public Investment Fund ("PIF") to contribute \$20 billion to a \$100 billion fund being managed by the Blackstone Group, which would primarily be used for investment in U.S. infrastructure projects.<sup>1</sup>

12. President Trump has repeatedly voiced support for expanding opportunities for private firms to invest in federal infrastructure projects.<sup>2</sup>

13. Blackstone CEO Stephen Schwarzman has served as an informal advisor to President Trump and his close ties to the Trump Administration were reportedly instrumental in the Blackstone Group securing the deal with the Saudi sovereign wealth fund.<sup>3</sup>

14. Indeed, the deal was announced "at the [Saudi] royal palace in Riyadh as Mr. Trump and [son-in-law and White House Advisor Jared] Kushner looked on."<sup>4</sup>

### Plaintiff's FOIA Requests

15. In order to understand, and explain to the public, the nature of the Trump Administration's preparations for and support of the Saudi-U.S. CEO Forum, as well as other

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<sup>1</sup> Anthony Capaccio & Kevin Cirilli, *Corporate CEOs Descend on Riyadh for Trump's Summit*, Bloomberg (May 20, 2017), <https://www.bloomberg.com/news/articles/2017-05-20/corporate-a-listers-descend-on-riyadh-for-trump-s-ceo-summit>.

<sup>2</sup> See, e.g., Jane C. Timm, *Trump Rolls Out Infrastructure Plan Hinged on State, Private Dollars*, NBC News (Feb. 12, 2018), <https://www.nbcnews.com/politics/donald-trump/trump-rolls-out-infrastructure-plan-opening-door-private-investment-n847161> (describing President Trump's "infrastructure plan" which asked for hundreds of millions of dollars in incentives for private investment participation in infrastructure projects).

<sup>3</sup> Jessica Silver-Greenberg et al., *The Benefits of Standing by the President*, N.Y. Times (Aug. 19, 2017), <https://www.nytimes.com/2017/08/19/business/the-benefits-of-standing-by-the-president.html>.

<sup>4</sup> *Id.*

efforts by the Trump Administration to connect major U.S. private investment firms with foreign investors, Plaintiff submitted the following request for records to Commerce and Treasury on June 19, 2017:

1. Any and all records that refer or relate to the Saudi-US CEO Summit that took place in Saudi Arabia on May 20, 2017. This includes, but is not limited to, any records that refer or relate to: (i) the Public Investment Fund (PIF); (ii) Mohammed bin Salman; or (iii) preparatory work or planning for the Saudi-US CEO Summit conducted by the Department of Transportation.
2. Any and all records that refer or relate to the Blackstone Group LP. This includes, but is not limited to: (i) any and all records from or to Blackstone Group LP employees; and (ii) any and all records that refer or relate to Stephen Schwarzman, Sean Klimczak, or Transmission Developers Inc.
3. Any and all records that refer or relate to Goldman Sachs and its employees. This includes, but is not limited to: (i) any and all records from or to Goldman Sachs employees; and (ii) any and all records that refer or relate to Goldman Sachs Infrastructure Partners, GS Infrastructure Partners, GSIP, or GS Global Infrastructure Fund.
4. Any and all records that refer or relate to Global Infrastructure Partners (or GIP). This includes, but is not limited to: (i) any and all records from or to Global Infrastructure Partners (or GIP) employees; and (ii) any and all records that refer or relate to Adebayo Ogunlesi.
5. Any and all records that refer or relate to CG/LA Infrastructure Inc. This includes, but is not limited to: (i) any and all records from or to CG/LA Infrastructure Inc. employees; and (ii) any and all records that refer or relate to Norman Anderson.
6. Any and all records that refer or relate to Boston Consulting Group (“BCG”). This includes, but is not limited to: (i) any and all records from or to Boston Consulting Group (“BCG”) employees; and (ii) any records that refer or relate to Mark Freedman, or Jeff Hill.

*See* June 19, 2017 FOIA Request to Commerce, Ex. A at 1-2 (footnotes omitted); *see also* June 19, 2017 FOIA Request to Treasury, Ex. B at 1-2 (footnotes omitted).

16. Plaintiff requested that Defendants search for responsive records created between January 20, 2017 and the date the search is conducted.

17. Plaintiff sought a waiver of search and duplicating fees under 5 U.S.C. § 552(a)(4)(A)(iii), which requires a fee waiver 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.”

Plaintiff’s Correspondence with Commerce

18. Plaintiff received an electronic response acknowledging receipt of its request from Commerce on June 19, 2017 and also assigning tracking number DOC-OS-2017-001401 to Plaintiff’s request.

19. Subsequently, on June 21, 2017, Plaintiff agreed to limit the scope of its request by clarifying that Commerce should search for responsive records only within the Office of the Secretary, International Trade Administration (Global Markets), and the U.S. Economic Development Administration (EDA). Plaintiff received an electronic acknowledgement of that understanding on July 13, 2017.

20. On October 24, 2017, Plaintiff received an email from Commerce providing notice that Plaintiff’s request for a fee waiver had been fully granted.

21. On November 8, 2017, a Commerce FOIA officer represented that Plaintiff could expect to have a response to the request by the end of November 2017.

22. Plaintiff again inquired as to the status of its request on January 25, 2018, and was told that it could expect production of some records to begin within two weeks (*i.e.*, early February 2018).

23. On March 9, 2018, Commerce informed Plaintiff by email that only one office within Commerce had submitted a response, that responses from eight other offices were outstanding, and that an interim production was not possible at that time.

24. Plaintiff has heard nothing further from Commerce since March 9, 2018.

Plaintiff's Correspondence with Treasury

25. Treasury acknowledged receipt of Plaintiff's request by letter dated June 23, 2017 and also assigned tracking number 2017-06-207 to Plaintiff's request.

26. Plaintiff subsequently agreed that, with respect to the request to Treasury, the search for responsive records should be confined to searches within the Office of the Secretary, Chief of Staff, General Counsel, Deputy Secretary, Legislative Affairs, and International Affairs. Plaintiff further agreed to narrow its request by clarifying that, responsive records should discuss either the Saudi-U.S. CEO Summit or private investment in the Trump Administration's planned infrastructure projects, generally.

27. This understanding was memorialized through a series of email exchanges from September 8, 2017 to September 11, 2017 between Plaintiff and the Treasury FOIA Analyst assigned to Plaintiff's request.

28. On March 22, 2018, Treasury informed Plaintiff that it had received responsive records from one office within Treasury which were still being reviewed, and that it was still waiting on the submission of responsive records from three other offices. Treasury has not provided an estimate of when it will finish its review of the responsive records already identified, nor has it provided an estimate of when non-exempt responsive records are likely to be produced.

29. Accordingly, and as set forth in the paragraphs above, as of the date of this Complaint, Defendants have failed to notify Plaintiff whether they will comply with Plaintiff's FOIA request, *see* 5 U.S.C. § 552(a)(6)(A)(i), or produce all requested records or demonstrate that

they are lawfully exempt from production, *see id.* § 552(a)(6)(C). Nor have Defendants notified Plaintiff of the scope of any responsive records Defendants intend to produce or withhold and the reasons for any withholdings, or informed Plaintiff that it may appeal any adequately specific, adverse determination.

30. Because the Defendants have “fail[ed] to comply with the applicable time limit provisions” of the FOIA, even with the benefit of any extensions of time that the Defendants might have claimed, Plaintiff is “deemed to have exhausted [its] administrative remedies.” *See id.* § 552(a)(6)(C)(i).

### **CLAIM FOR RELIEF**

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

31. Plaintiff repeats and incorporates by reference each of the foregoing allegations as if fully set forth herein.

32. By failing to respond to Plaintiff’s request within the statutorily prescribed time limit, Defendants have violated their duties under the FOIA, including but not limited to their duties to conduct a reasonable search for responsive records, and to produce all responsive, reasonably segregable, non-exempt information.

33. Plaintiff is being irreparably harmed by Defendants’ violation of the FOIA, and Plaintiff will continue to be irreparably harmed unless Defendants are compelled to comply with the FOIA.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court:

1. order Defendants to conduct searches for any and all records responsive to Plaintiff’s FOIA request and demonstrate that they have employed search methods reasonably likely to lead to the discovery of records responsive to Plaintiff’s FOIA request;

2. order Defendants to produce, by a date certain, any and all nonexempt records responsive to Plaintiff's FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;

3. enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiff's FOIA request;

4. order Defendant to grant Plaintiff's request for a fee waiver;

5. grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

6. grant Plaintiff such other relief as the Court deems just and proper.

Dated: April 3, 2018

Respectfully submitted,

/s/ Javier M. Guzman

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