



August 4, 2025

VIA Electronic Delivery

Food and Drug Administration
Division of Headquarters Freedom of Information
Office of Disclosure, Information, Governance and Accessibility, ODIGA
5630 Fishers Lane, Room 1035
Rockville, MD 20857
Via Electronic Portal

Re: Freedom of Information Act Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, Reproductive Freedom for All (“RFA”) and Democracy Forward Foundation (“DFF”) submit this request for records.

The Trump Administration has recently taken prominent actions to further limit access to critical reproductive healthcare. This includes reports that the Administration will undertake a review of medication that has been available for decades, and the Administration’s rescission of guidance requiring hospitals receiving Medicare funds to provide emergency care to pregnant patients. The public deserves to understand the actions and priorities of health agency leaders as they undertake actions that could harm countless Americans by denying them access to vital healthcare.

Records Requested

RFA and DFF request that your agency produce the following within twenty (20) business days:

1. All calendar entries (including attendees, calendar invitations, calendar invitation attachments) of Food and Drug Administration (FDA) Commissioner Marty Makary, Chief of Staff Jim Traficant, and Deputy Commissioner Lowell M. Zeta concerning government business.
2. All materials used by or provided to Commissioner Makary in preparation for his March 6, 2025 and May 22, 2025 congressional testimony that concern abortion, mifepristone,

RFA-DFF-FDA-25-1168

misoprostol, other reproductive healthcare, the Comstock Act, or the Ethics and Public Policy Center (EPPC). Such records would likely include talking points, background memoranda, and sample questions and answers.

3. All communications (including emails, memoranda, and text messages (including on applications such as Signal and WhatsApp)) of (a) Commissioner Makary, Chief of Staff Traficant, Deputy Commissioner Lowell M. Zeta, and any other political appointee at FDA concerning (b) abortion, mifepristone, misoprostol, other reproductive healthcare, the Comstock Act, or the Ethics and Public Policy Center (EPPC).
4. All directives or guidance issued by Commissioner Makary, Chief of Staff Traficant, Deputy Commissioner Lowell M. Zeta, and any other political appointee at FDA regarding mifepristone, misoprostol, or any other medication related to abortion, including, but not limited to, directives concerning reviews of such medications.
5. Records sufficient to show all FDA staff and contracts carrying out any review of mifepristone, misoprostol, or any other medication related to abortion.
6. All communications (including emails, memoranda, and text messages (including on applications such as Signal and WhatsApp)) of (a) Commissioner Makary, Chief of Staff Traficant, Deputy Commissioner Lowell M. Zeta, and any other political appointee at FDA with (b) the entities listed below:
 - External Organizations:
 - I. National Right to Life Committee (@nrlc.org)
 - II. Americans United for Life (@aul.org)
 - III. Students for Life of America (@studentsforlife.org)
 - IV. Susan B. Anthony Pro-Life America (@sbaprolife.org)
 - V. Alliance Defending Freedom, including Erik Baptist (@adflegal.org)
 - VI. Ethics in Public Policy Center (@eppc.org)
 - VII. Senator Josh Hawley or his staff (@hawley.senate.gov)
 - VIII. Jonathan Mitchell (jonathan@mitchell.law)

This request seeks records from March 1, 2025, until the date of the search.

Scope of Search

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).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and your agency's regulations, DFF requests a waiver of all fees associated with processing records for this request. FOIA requires documents to be furnished to requesters at no fee or reduced fees "if disclosure of the information 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." 5 U.S.C. § 552(a)(4)(A).

In determining whether a fee waiver is appropriate, courts consider whether a requester has a "demonstrated . . . ability to disseminate the requested information," *Cause of Action v. F.T.C.*, 799 F.3d 1108, 1116-17 (D.C. Cir. 2015), and whether the requester regularly disseminates records obtained through FOIA to "a reasonably broad audience of persons interested in the subject" of its work. *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). FOIA does not require a requester to describe exactly how it intends to disseminate the information requested, as that would require "pointless specificity"; all that is necessary is for a requester to adequately demonstrate its "ability to publicize disclosed information." *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). In evaluating a fee waiver request, courts consider how a requester actually communicates information collected through FOIA to the

public, including press releases or a website where documents received are made available, *see id.*, or whether the requester has a history of “contacts with any major news[] companies” that suggest an ability to disseminate materials of interest through the press. *Larson v. C.I.A.*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (upholding a denial of a fee waiver to a requester who had failed to identify his relationships with newspaper companies that could disseminate documents).

The requested waiver is in the public interest because providing the copy of the information sought primarily benefits the general public. Democracy Forward Foundation has a demonstrated ability to disseminate information of public interest requested through freedom of information statutes, and based upon responses to this request may assist in publicizing records received to contribute to the public’s understanding of the priorities and actions of Trump Administration health agency leaders, including their actions regarding access to reproductive health care.¹ Indeed, records received by Democracy Forward Foundation have previously formed the basis of news reports.²

¹ Chantelle Lee, *Here Are Trump’s Major Moves Affecting Access to Reproductive Healthcare*, TIME (Feb. 20, 2025), <https://time.com/7260062/trump-first-month-abortion-reproductive-rights/>; Alejandra O’Connell-Domenech, *FDA commissioner pledges to investigate Mifepristone*, The Hill (Jun. 3, 2025), <https://thehill.com/policy/healthcare/5330774-marty-makary-fda-mifepristone-review/>; Amanda Seitz and Geoff Mulvihill, *Trump Administration Revokes Guidance Requiring Hospitals to Provide Emergency Abortions*, Associated Press (June 3, 2025), <https://apnews.com/article/abortion-emptala-biden-trump-emergency-hospital-3640bff165dac1d28b91e8adee7e47dd>.

² *See, e.g.*, Alexander Nazaryan, *Why did right-wing troll Charles C. Johnson meet with Commerce Secretary Wilbur Ross?*, Yahoo News (May 14, 2019), <https://news.yahoo.com/why-did-rightwing-troll-charles-c-johnson-want-to-meet-with-commerce-secretary-wilbur-ross-090000636.html>; Derek Kravitz and Jack Gillum, *“Happy to Do It”: Emails Show Current FAA Chief Coordinated With Ex-Lobbyist Colleagues on Policy*, ProPublica (Mar. 27, 2019), <https://www.propublica.org/article/dan-elwell-current-faa-chief-coordinated-with-ex-lobbyist-colleagues-on-policy>; Hamid Aleaziz, *Emails Show US Border Officials Didn’t Receive “Zero Tolerance” Guidance Until After the Policy Was Enacted*, BuzzFeed News (Feb. 28, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/zero-tolerance-policy-guidance-dhs-family-separation>; Jonathan Cohn and Jeffrey Young, *Emails Show Trump Administration Was Told Obamacare Ad Cuts Could Hurt Enrollment*, HuffPost (Dec. 17, 2018), https://www.huffingtonpost.com/entry/trump-verma-obamacare-advertising-cut_us_5c115061e4b084b082ff8dba; Madison Pauly, *When the Biggest Prison Company Complained About a California Sanctuary Law, ICE Listened*, Mother Jones (Dec. 7, 2018), <https://www.motherjones.com/politics/2018/12/geo-memo-private-prison-california-immigration/>; Eliza Rellman, *‘Just answer the question and kill this story’: In internal emails, Heather Nauert criticized Rex Tillerson’s refusal to deny reports that he called Trump a ‘moron,’* Business Insider (Nov. 2, 2018), <https://www.businessinsider.com/heather-nauert-rex-tillerson-trump-moron-2018-11>; Rebecca Klein, *Lawsuit Accuses Betsy DeVos And Her Deputies Of Being Motivated By Sexism*, HuffPost (Oct. 31, 2018), https://m.huffpost.com/us/entry/us_5bd9ff6ee4b01abe6a1ad4a9; Nick Penzenstadler, *A year after Vegas shooting, ATF emails reveal blame, alarm over bump stocks*, USA Today (Oct. 1, 2018), <https://www.usatoday.com/story/news/2018/10/01/year-after-vegas-shooting-atf-emails-reveal-blame-alarm-over-bump-stocks/1432137002/>; Jessica Kwong, *Ivanka Trump was more than complicit in Obama equal pay rollback-she had a hand in it, watchdog alleges*, Newsweek (Aug. 29, 2018), <https://www.newsweek.com/ivanka-trump-equal-pay-complicit-obama-1093833>; Vera Bergengruen, *New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump*, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emails-show-what-happens-when-the-white-house-ke>

Democracy Forward Foundation is not filing this request to further any commercial interest, and any information obtained by Democracy Forward Foundation as a result of this request and disclosed will be disclosed at no cost.

If the 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 \$100. If the costs of responding to this request should exceed that amount, please contact us before incurring costs exceeding that amount.

Conclusion

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 20 business days, please contact me as soon as possible at foia@democracyforward.org.

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

Sincerely,

/s/ Mini Timmaraju

Mini Timmaraju
President & CEO
Reproductive Freedom for All
1725 Eye Street NW, Suite 900
Washington, DC 20006

/s/ Skye Perryman

Skye Perryman
President & CEO
Democracy Forward Foundation

[eps](#); Erin Dooley, *Exclusive: Former for-profit college executive shaped Education Department policy that could benefit former employers: Documents*, ABC News (May 15, 2017), <https://abcnews.go.com/US/exclusive-profit-college-executive-shaped-education-department-policy/story?id=55108981>; Heidi Przybyla, *Notes, emails reveal Trump appointees' war to end HHS teen pregnancy program*, NBC News (Mar. 20, 2018), <https://www.nbcnews.com/politics/politics-news/notes-emails-reveal-trump-appointees-war-end-hhs-teen-pregnancy-n857686>; Dominic Holden, *Documents Show The Trump Administration Approved Bump Stocks Before It Opposed Them*, BuzzFeed News (Mar. 22, 2018), <https://www.buzzfeednews.com/article/dominicholden/trump-administration-bump-stocks>; Bernard Condon, *Trump Advisor Denies He Cheered End of Tunnel Funding Deal*, Associated Press (Feb. 13, 2018), available at <https://www.usnews.com/news/business/articles/2018-02-13/trump-adviser-denies-he-cheered-end-of-tunnel-funding-deal>; Celeste Katz, *Interior Department tapped wildfire preparedness funds for Ryan Zinke helicopter tour*, Newsweek (Dec. 29, 2017), <https://www.newsweek.com/ryan-zinke-interior-department-helicopters-wildfires-757857>.

P.O. Box 34553
Washington, D.C. 20043