



February 21, 2017

**VIA ELECTRONIC MAIL ONLY**

Brett Max Kaufman  
American Civil Liberties Union  
125 Broad Street, 18th Floor  
New York, NY 10004  
[bkaufman@aclu.org](mailto:bkaufman@aclu.org)

Tracking No: OGE FOIA FY 17/121

Dear Mr. Kaufman:

This is in reference to your Freedom of Information Act (FOIA) request, which was received by the Office of Government Ethics (OGE) FOIA Office on January 19, 2017. The request seeks the following records created on or between November 9, 2016 and January 20, 2017:

- (1) Legal opinions, memoranda, or advisories addressing actual or potential financial or other ethical conflicts of interest, including interpretations of the U.S. Constitution, federal criminal laws, or government regulations;
- (2) Policy, educational, or program-management memoranda, advisories, or evaluations addressing actual or potential financial or other ethical conflicts of interest; and
- (3) Communications -- including but not limited to emails, letters, social-media posts, Twitter direct messages -- to, from, or about the presidential transition addressing actual or potential financial or other ethical conflicts of interest of Donald J. Trump and/or Jared Kushner.

During a telephone call you clarified that you are only are only interested in records produced by the government, which would exclude unsolicited communications sent to OGE from the public through our Contact OGE program, as well as OGE's standardized responses to such communications. Accordingly, we did not search for such records.



With regard to parts one and two of your request, the responsive records are all of OGE's legal, program, and educational advisories issued during the relevant time frame, which are all publicly available on its website here: <https://www.oge.gov/web/oge.nsf/All%20Advisories>. These advisories can be searched by date, as well as by topic, using the "advanced search" feature. If this is not sufficient for your purposes, please let us know and we will provide hard copies.

With regard to part three of your request, enclosed please find 119 pages of responsive documents, subject to deletions made in accordance with FOIA Exemption 5, 5 U.S.C. § 552(b)(5), as inter- and intra-agency predecisional deliberative process material, and FOIA Exemption 6, 5 U.S.C. § 552(b)(6), as information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The deletions are each marked with a reference "(b)(5)" or "(b)(6)" in the enclosed copies. A draft public financial disclosure report has also been withheld in accordance with Exemption 3, 5 U.S.C. § 552(b)(3), as material specifically exempted from disclosure by another statute. Access to OGE Form 278e reports is only available under the special access provision of the Ethics in Government Act of 1978 (5 U.S.C. appendix, § 105) and OGE's regulations. In addition, to the extent that they may be responsive, there are copies of tweets sent to Donald Trump concerning his conflicts of interest and related records posted in OGE's electronic reading room here:

[https://www.oge.gov/web/OGE.nsf/Resources/Records+w+the+terms+Twitter+Tweet+Trump+etc+\(11-23-16+to+12-1-16\)+\(redacted\)](https://www.oge.gov/web/OGE.nsf/Resources/Records+w+the+terms+Twitter+Tweet+Trump+etc+(11-23-16+to+12-1-16)+(redacted))

OGE is withholding ten pages of notes from OGE staffers to senior management. These notes are withheld pursuant to FOIA Exemption 5 as intra-agency predecisional deliberative process material. Release of these records would discourage open and frank discussion on matters of policy between subordinates and superiors and otherwise harm the deliberative process. Note also that OGE has five pages of reviewer's notes pertaining to the issuance of CDs to the Kushner family. To the extent that these records are responsive, they are withheld in their entirety pursuant to FOIA Exemption 5, as inter- and intra-agency predecisional deliberative process material. The notes are an expression of the individual reviewer's views and not an expression of the agency's official position. As such, the release of these documents could lead to unnecessary confusion, mislead the public about the filer, and otherwise harm the deliberative process. The records are also withheld pursuant to FOIA Exemption 6, as information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

If you have any questions or wish to discuss any aspect of your request, you may contact me by telephone at 202-482-9267. As OGE's FOIA Public Liaison, I am available

for assisting in reducing delays, increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

The OGE official responsible for this FOIA determination is the undersigned. If you consider this response to be a denial of your request, you may administratively appeal this determination in accordance with the FOIA, as codified at 5 U.S.C. § 552(a)(6)(A), and OGE's updated FOIA regulations, at 5 C.F.R. § 2604.304, to the Program Counsel, U.S. Office of Government Ethics, 1201 New York Avenue, N.W., Suite 500, Washington, DC 20005-3917. Any such appeal must be in writing and must be sent within 90 days of the date you receive this response letter. If you do appeal, you should include copies of your request and this response, together with a statement of why you believe this initial determination is in error. Also, if you appeal, you should clearly indicate on the envelope and in the letter that it is a "Freedom of Information Act Appeal."

Sincerely,

Rachel K. Dowell  
OGE FOIA Officer

Enclosures