



Daniel Van Schooten <dvanschooten@pogo.org>

FOIA Request

Ricker, Monique T. EOP/USTR <Monique_T_Ricker@ustr.eop.gov>

Wed, Mar 29, 2017 at 11:04 AM

To: Daniel Van Schooten <dvanschooten@pogo.org>

Cc: FN-USTR-FOIA <FN-USTR-FOIA@ustr.eop.gov>

Mr. Van Schooten,

The USTR FOIA office received your Freedom of Information Act (FOIA) request dated March 28, 2017 and assigned it tracking number FY17-51. Please cite this number in any future communications with our office regarding your request.

After a search of our files,

1. we did not locate records responsive to your request.
2. Mr. Robert Lighthizer was nominated to serve as the next US Trade Representative. His ethics agreement is publicly available on the Office of Government Ethics' website: <https://oge.gov/web/oge/nsf/Presidential%20Appointee%20&%20Nominee%20Records>

This constitutes a complete response to your request. You may contact me for any further assistance and to discuss any aspect of your request. 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; telephone at [202-741-5770](tel:202-741-5770); toll free at [1-877-684-6448](tel:1-877-684-6448); or facsimile at [202-741-5769](tel:202-741-5769).

If you are not satisfied with the response to this request, you may also administratively appeal by writing to: USTR FOIA Appeals Committee, GSD/RDF; FOIA Office, Anacostia Naval Annex, Bldg. 410/Door 123, 250 Murray Lane, S.W., Washington, D.C. 20509.

Your appeal must be postmarked or electronically transmitted within 90 days of the date of the response to your request. Both the letter and the envelope should be clearly marked: "Freedom of Information Act Appeal" and should include a reference to the FOIA Case File number listed below. Heightened security in force may delay mail delivery; therefore we suggest that you also email any such appeal to foia@ustr.eop.gov.

In the event you are dissatisfied with the results of any such appeal, judicial review will thereafter be available to you in the United States District Court for the judicial district in which you reside or have your principal place of business, or in the District of Columbia, where we searched for the records you requested.

Thank you,
Monique

Monique T. Ricker
FOIA Program Manager/Attorney

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON DC 20508

-----Original Message-----

From: Daniel Van Schooten [mailto:dvanschooten@pogo.org]
Sent: Tuesday, March 28, 2017 5:07 PM
To: Ricker, Monique T. EOP/USTR <Monique_T_Ricker@ustr.eop.gov>
Subject: Re: FOIA Request

3/28/17

Monique Ricker

Attorney-Advisor

1724 F Street NW

Washington, DC 20508

Delivered via email to: foia@ustr.eop.gov <<mailto:foia@ustr.eop.gov>>

Re: Freedom of Information Act Request

Dear Ms. Ricker,

I am making this request under the Freedom Of Information Act ("FOIA"), 5 U.S.C. § 552. Please provide records that are maintained by your agency or for your agency by a government contractor in any format, including an electronic format. Please provide:

1. A copy of all ethics waivers and recusal agreements/records issued by the Office of the United States Trade Representative from January 1, 2017 to the present. These types of records are often, but not always, issued pursuant to 18 U.S.C. §§ 207 and 208, 5 C.F.R. Part 2635, or Executive Order 13770 or its predecessor, Executive Order 13490.

2. In the case of waivers issued under Executive Order 13770, I am requesting copies of the waivers that have been provided to the head of the agency, pursuant to Section 3(c): "A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve."

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 5 552(a)(4)(A)(iii). Disclosure of the requested records will further 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, the Project On Government Oversight (POGO). Specifically, POGO intends to use the requested

records to highlight the standards for granting ethics waivers so that it can increase the public's knowledge of ethics policies and provide any recommendations that are necessary to make the ethics waiver system even more fair, just, and accountable. If the request for a fee waiver is denied, please contact me about any incurred expenses prior to supplying the requested records.

Please see the following fee waiver statements.

The subject of the request:

POGO is requesting records which will inform readers about official ethics recusals and waivers. We believe these records will allow us to better inform the public about the enforcement of the ethics laws, regulations, and orders, which is essential to ensuring that agencies are operating in the public interest. These records are not currently posted online.

The informative value of the information to be disclosed:

The information to be disclosed is likely to contribute to an increased public understanding of government activities, as it relates to the ethics requirements of executive branch appointees. If an appointee is not subject to the ethics pledge, it important to know, in order to prevent allegations of ethics violations that might harm an appointee's reputation, despite being officially exempted from those requirements.

The contribution to an understanding of the subject by the public likely to result from disclosure:

POGO investigates, exposes, and seeks to remedy systemic abuses of power and mismanagement in the federal government. Founded in 1981, POGO is a politically independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its activities to the public, policymakers, and the media via email, direct mail, and its websites which receives approximately 70,000 unique views per month. The records provided by your agency will be used for the following activities, which are publicly available: publication by email and on POGO websites; publication in reports and newsletters issued by POGO; publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers; or in conjunction with the news media.

The significance of the contribution to public understanding:

Disclosure of the records is likely to contribute significantly to the public's understanding of government ethics, senior agency officials, and the policies and operations of the government. Knowledge of recusals and waiver can build public confidence in the government and in the ethics processes currently in place. The requested records are not currently publicly available, and they will bring a unique perspective to the public discussion surrounding government ethics requirements.

The existence and magnitude of a commercial interest:

POGO does not charge for access to its web site, reports, newsletters, or other publications. In addition, we do not directly profit from increased viewership of our website, as it is advertisement-free.

The primary interest in disclosure:

POGO has no financial interest in the requested information as stated above. The primary interest in disclosure is that of the public interest.

If this request is denied in full or in part, please cite each exemptions pursuant to 5 U.S.C. § 552(b) that justifies each denial. If an exemption applies, however, please consider exercising the agency's discretionary release powers to disclose the records. Any such action supports the presumption of "openness" on which FOIA is based upon. Additionally, please release all reasonably segregable portions of the records that do not meet an exemption. 5 U.S.C. § 552(b).

I look forward to your response, including an individualized tracking number, within 20 days of the receipt of this request, unless, in the case of "unusual circumstances," the time limitation is "extended by written notice." 5 U.S.C. § 552(a)(6)(B). I am aware that all fees will be waived if specified time limits are not met. 5 U.S.C. § 552(a)(4)(A)(viii). I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if successful, a federal district court may assess "reasonable attorney fees and other litigation costs." 5 U.S.C. § 552(a)(4)(E).

Please contact me if this request requires further clarification. Thank you for your prompt attention to this matter.

Sincerely,

Daniel Van Schooten

Research Associate

dvanschooten@pogo.org <<mailto:dvanschooten@pogo.org>>

1100 G St NW Suite 500

Washington DC 20005

On Tue, Mar 28, 2017 at 4:58 PM, Ricker, Monique T. EOP/USTR <Monique_T_Ricker@ustr.eop.gov>

<mailto:Monique_T_Ricker@ustr.eop.gov> > wrote:

Mr. Van Schooten,

Per section 2004.3 of our FOIA regulations, (see: <https://ustr.gov/sites/default/files/foia/USTR%20FOIA%20Rule.pdf> <<https://ustr.gov/sites/default/files/foia/USTR%20FOIA%20Rule.pdf>>) we will not open FOIA requests sent to us as attachments to emails. Please resubmit your FOIA request in the body of an email.

Thank you,
Monique

Monique T. Ricker
Attorney-Advisor
EOP/USTR
(o) 202-395-4990 <<tel:202-395-4990>>
(c) 202-881-7849 <<tel:202-881-7849>>
mricker@ustr.eop.gov <<mailto:mricker@ustr.eop.gov>>

-----Original Message-----

From: Daniel Van Schooten [<mailto:dvanschooten@pogo.org> <<mailto:dvanschooten@pogo.org>>]
Sent: Tuesday, March 28, 2017 2:05 PM
To: FN-USTR-FOIA <FN-USTR-FOIA@ustr.eop.gov <<mailto:FN-USTR-FOIA@ustr.eop.gov>> >
Subject: FOIA Request

Dear Ms. Keppel,

Please see the attached FOIA request.

Thank you,

Daniel

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Daniel Van Schooten
Research Associate
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