



REQUEST UNDER THE D.C. FREEDOM OF INFORMATION ACT

July 20, 2018

D.C. Office of the Attorney General
441 4th Street NW
Washington, DC 20001

By Electronic Mail to: dc.oag@dc.gov

RE: Certain records pertaining to OAG and NYU Special Assistant AG

To Whom it May Concern:

Pursuant to the D.C. Freedom of Information Act, D.C. Code §§ 2-531-539, please provide us within the statutorily prescribed time certain described *information*, as follows:

Copies of all correspondence dated from **September 1, 2017, through the date you process this request, and its accompanying information¹, including also any attachments**, sent to or from or copying (whether as cc: or bcc:) **Natalie Ludaway**, as described herein:

- 1) any correspondence with any party, or other record, offering, asserting or affirming appointment of *any Special Assistant Attorney General, Special Deputy Attorney General, Pro Bono Assistant Counsel*, or appointee by any title through, or affiliated with or mentioning in any way, New York University's State Energy & Environmental Impact Center;
- 2) any correspondence or other record to, from or copying David Hayes, of NYU's State Impact Center, relating to or extending an offer of employment to any party, under any title; and/or

¹ This includes public records, and associated public information, see discussion of Data Delivery Standards, *infra*.



3) all emails, including any attachments, transmitting the above-described records to your Office.

Please consider as responsive entire email “threads” containing any information responsive to this request, regardless whether any part of that thread falls outside the cited search parameters.

As this matter involves a significant issue of public interest, please produce responsive information as it becomes available on a rolling basis but consistent with the Act’s prescribed timelines.

Consistent with the D.C. Freedom of Information Act and given the non-profit transparency and journalism activities of the requesters,² we ask that those limited fees permitted by 1 D.C.M.R. § 408 be waived pursuant to D.C. Code § 2-532(b). In the interests of expediting the search and processing of this Request, CEI is willing to pay fees up \$200. Please provide an estimate of anticipated costs in the event that fees for processing this Request will exceed \$200. To keep costs and copying to a minimum **please provide copies of all productions to the email used to send this request.** Given the nature of the records responsive to this request, all should be in electronic format, and therefore there should be no photocopying costs (see discussion, *infra*).

² We also note the federal government has already acknowledged that CEI qualifies as a media organization under FOIA. See *e.g.*, Treasury FOIA Nos. 2012-08-053, 2012-08-054.



We request records on your system, e.g., its backend logs, and do *not* seek only those records which survive on an employee’s own machine or account, which are subject to placement in a trash/recycle folder and removal while the record remains elsewhere.

We do not demand your Office produce requested information in any particular form, instead **we request records in their native form, with specific reference to the U.S. Securities and Exchange Commission Data Delivery Standards.**³ The covered information we seek is electronic information, this includes electronic *records*, and other public *information*.

To quote the SEC Data Delivery Standards, “Electronic files must be produced in their native format, i.e. the format in which they are ordinarily used and maintained during the normal course of business. For example, an MS Excel file must be produced as an MS Excel file rather than an image of a spreadsheet. *(Note: An Adobe PDF file is not considered a native file unless the document was initially created as a PDF.)*” (emphases in original).

In many native-format productions, certain public information remains contained in the record (e.g., metadata). Under the same standards, to ensure production of all information requested, if your production will be de-duplicated it is vital that you 1) preserve any unique metadata associated with the duplicate files, for example, custodian name, and, 2) make that unique metadata part of your production.

Native file productions may be produced without load files. However, native file productions must maintain the integrity of the original meta data, and must be produced as they

³ <https://www.sec.gov/divisions/enforce/datadeliverystandards.pdf>



are maintained in the normal course of business and organized by custodian-named file folders. A separate folder should be provided for each custodian.

In the event that necessity requires your Office to produce a PDF file, due to your normal program for redacting certain information and such that native files cannot be produced as they are maintained in the normal course of business, in order to provide all requested information each PDF file should be produced in separate folders named by the custodian, *and* accompanied by a load file to ensure the requested information appropriate for that discrete record is associated with that record. The required fields and format of the data to be provided within the load file can be found in Addendum A of the above-cited SEC Data Standards. All produced PDFs must be text searchable.

In the context of our experience with responsive agencies taking the effort to physically print, then (often, poorly) scan *electronic* mail into (typically, non-searchable) PDF files, we note that production of electronic records necessitates no such additional time, effort or other resources, and no photocopying expense. Any such effort as described is most reasonably viewed as an effort to frustrate the requester's use of the public information.

1310 L Street, NW, 7th Floor
Washington, DC 20005
cei.org

202 331 1010 *main*
202 331 0640 *fax*



If you have any questions, or would like to discuss this matter further, do not hesitate to contact me by email. We look forward to your timely response.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris Horner", is written over a faint, light-colored background that looks like a watermark or a very light signature.

Christopher C. Horner
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202.262.4458