



May 21, 2018

VIA Electronic Delivery

Ingrid A. Kolb
Chief FOIA Officer
Department of Energy
FOIA Requester Service Center
1000 Independence Avenue, SW
Washington, DC 20585
Phone: 202-586-5955
FOIA-Central@hq.doe.gov

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Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq.*, and the Department of Energy ("DOE") FOIA regulations at 10 C.F.R. Part 1004, Democracy Forward Foundation makes the following request for records.

Background

According to the *Wall Street Journal*, the Trump administration is considering a deal to sell nuclear reactors to Saudi Arabia.¹ Minister of Energy Khalid Bin Abdulaziz Al-Falih and Energy Secretary Rick Perry have also reportedly held discussions regarding a potential nuclear cooperation agreement.²

In 2018, Saudi Arabia's Ministry of Energy, Industry, and Mineral Resources (MEIM) hired four US-based lobbying firms to advise them on a 123 Agreement with the United States. The execution of such an agreement is largely carried out by the Nuclear Regulatory Commission and the US Department of Energy.³

¹<https://www.wsj.com/articles/saudi-resistance-to-nuclear-standards-could-roil-u-s-reactor-deal-1519122600>

²<https://www.bloomberg.com/news/articles/2018-02-26/u-s-energy-chief-is-said-to-plan-nuclear-deal-talks-with-saudis>

³ <https://www.epa.gov/laws-regulations/summary-atomic-energy-act>

Melvin

Records Requested

In an effort to better understand, and explain to the public, the Department of Energy's role in a potential 123 nuclear cooperation agreement between the United States and Saudi Arabia, Democracy Forward Foundation requests that Energy produce the following within twenty (20) business days:

1. Any and all records, including discussions of waivers and exceptions, relating to a nuclear cooperation agreement between the United States and Saudi Arabia pursuant to Section 123 of the Atomic Energy Act and including, but not limited to, correspondence to or from the following email domain: @meim.gov.sa
2. Any and all records, including correspondence with attachments, travel records including flight manifests, and interagency discussions, relating to the March 2018 meeting between Energy Secretary Rick Perry and Saudi Arabian Minister of Energy and Industry Khalid Bin Abdulaziz Al-Falih in London
3. Any and all records, including correspondence with attachments, travel records including flight manifests, and interagency discussions, relating to the November 2017 meeting between Energy Secretary Rick Perry and Saudi Arabian Minister of Energy and Industry Khalid Bin Abdulaziz Al-Falih
4. Any and all records, including correspondence with attachments, travel records including flight manifests, and interagency discussions, relating to the March 2017 meeting between Energy Secretary Rick Perry and Saudi Arabian Minister of Energy and Industry Khalid Bin Abdulaziz Al-Falih
5. Any and all communications between Department of Energy staff and the following entities relating to nuclear cooperation agreements between the United States and Saudi Arabia pursuant to Section 123 of the Atomic Energy Act:

Westinghouse ("@westinghouse.com")

Exelon ("@exeloncorp.com")

GE Hitachi Nuclear Energy ("@ge.com")

SunPower Corporation ("@sunpowercorp.com")

Toshiba ("@taec.toshiba.com")

6. Any and all communications between Department of Energy staff and the following entities relating to nuclear cooperation agreements between the United States and Saudi Arabia pursuant to Section 123 of the Atomic Energy Act:

Pillsbury Shaw LLP ("@pillsburylaw.com")

David B. Kultgen ("David.Kultgen@kultgenlaw.net" or "David.Kultgen@outlook.com")

Gowling WLG LLP ("@gowlingwlg.com")
King & Spalding LLP ("@kslaw.com")

Scope of Search

The time period for this search should be from January 20, 2017, to the time the search is conducted.

Please include copies of attachments in all correspondence that qualify as responsive records.

Please limit the search to the following Energy offices: Office of Secretary, Office of Cyber Security, Energy Security, and Emergency Response, Office of Nuclear Energy, Office of Congressional and Intergovernmental Affairs, Office of General Counsel, Office of Deputy Secretary

For responsive records, please disregard news clips that do not include commentary added by sender or recipient.

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

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 id.* § 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 10 C.F.R. § 1004.9, Democracy Forward Foundation requests a waiver of all fees associated with processing records for this request. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute to a better understanding of these operations by the public in a significant way. Moreover, the request is for non-commercial purposes.

Pursuant to 10 C.F.R. § 1004.9(a)(8), disclosure of the requested records is "likely to contribute significantly to public understanding of the operations or activities of the government." The requested records, which will illuminate the Department of Energy's decision-making role in nuclear cooperation agreement negotiations, clearly concern and have a logical connection to operations or activities of the Federal Government. Because these records will shed light on the reasons for this decision in a manner that has not already been made public, they also will be meaningfully informative and will contribute to public understanding "significantly," *id.* § 1004.9(a)(8)(i)(D). As described below, Democracy Forward Foundation intends to use its website and social media accounts to ensure that the records disclosed in response to this request will contribute to the understanding of a reasonably broad audience of persons interested in the subject.

This request is primarily for non-commercial purposes. *Id.* § 1004.9(a)(8)(ii). Democracy Forward Foundation is a nonprofit organization organized under Internal Revenue Code § 501(c)(3). A core mission of Democracy Forward Foundation is to educate the public about improper governmental activity. Democracy Forward Foundation intends to use the materials gathered to educate the public through its website, press releases, and social media outlets.

Accordingly, Democracy Forward Foundation qualifies for a fee waiver.

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 the 20-day period, please contact Travis Annatoyn as soon as possible at foia@democracyforward.org or 202-448-9090.

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

Sincerely,

Travis Annatoyn