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ELECTRONIC FRONTIER FOUNDATION

October 31, 2017

The Honorable Mick Mulvaney
Director
Office of Management and Budget
The White House
725 17th Street, NW
Washington, DC 20503

Melanie Ann Pustay
Director
Office of Information Policy
U.S. Department of Justice
1425 New York Avenue, NW, Ste. 11050
Washington, D.C. 20530-0001

Coalition Urges Agencies to Finalize Proactive “Release to One, Release to All” FOIA Disclosure Policy

Directors Mulvaney and Pustay:

On behalf of the undersigned organizations, we urge you to finalize and implement the proactive disclosure policy of “Release to One, Release to All” under the Freedom of Information Act (“FOIA”). In July 2016, the country celebrated the 50th anniversary of the FOIA. Congress marked the occasion by passing the FOIA Improvement Act of 2016. In conjunction with signing the bill, President Obama announced a series of policies to both implement the act and build on its goal of increasing government transparency.¹ One of those policy initiatives was to learn from the Department of Justice Office of Information Policy (“OIP”) “Release to One, Release to All” pilot program and work toward all agencies posting their FOIA productions online after they release the information to the requester. President Obama directed the Chief FOIA Officers Council and the White House Office of Management and Budget (“OMB”) to complete the guidance implementing the policy by January 1, 2017.

¹ Press Release, The White House, Fact Sheet: New Steps Toward Ensuring Openness and Transparency in Government (June 30, 2016), available at <http://bit.ly/2xSRReOa>.



Despite soliciting and collecting public comments on the proposal in December 2016, now under the Trump Administration, OIP has failed to finalize the policy or respond to multiple requests about its plans either to finalize or abandon the policy. This silence after soliciting public feedback on a proactive disclosure policy is particularly troubling.

“Release to One, Release to All” is sound public policy that would increase government transparency and leverage the existing investment in FOIA disclosures. When an agency searches for, reviews, and processes information for release to a FOIA requester, it is, with the exception of first-party requests, preparing that information for release to the public. Federal agencies should simply take the final step and post that information on their websites. Placing this information in the public domain would allow the public to know what type of information is being requested, to search these prior productions for information relevant to their own purposes, and, perhaps, decrease the number for future requests or facilitate future requesters making more informed and targeted requests. What’s more, placing these information resources into the public domain has the potential to create unknown benefits, such as analyses of patterns in FOIA requests and harnessing of the information for other uses.

We understand the issues that need to be addressed to finalize the policy, such as protecting sensitive personal information, compliance with Section 508 of the Rehabilitation Act, installing a short delay between releasing information to the requester and posting it online to address journalists’ concerns, resource constraints, and identifying appropriate transition periods for agencies. OIP is already well positioned to resolve these issues after completing its pilot program and receiving public comment. None of these are insurmountable obstacles. We urge OIP and OMB to take the next step and finalize the policy.

Thank you for your attention to this matter. If you have any questions about this letter, please contact James Valvo at Cause of Action Institute at james.valvo@causeofaction.org or Alex Howard at the Sunlight Foundation at ahoward@sunlightfoundation.com.

Directors Mulvaney and Pustay

October 31, 2017

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Sincerely,

American-Arab Anti-Discrimination
Committee
American Library Association
American Society of News Editors
Associated Press Media Editors
Association of Alternative Newsmedia
American Association of Law Libraries
Campaign for Accountability
Cause of Action Institute
Center for Responsive Politics
Citizens for Responsibility and Ethics in
Washington

Data Coalition
Demand Progress
Electronic Frontier Foundation
Electronic Privacy Information Center
Government Information Watch
National Security Archive
National Taxpayers Union
OpenTheGovernment
Project on Government Oversight
Public Citizen
Society of Professional Journalists
Sunlight Foundation

cc:

Sen. Chuck Grassley, Chairman, Senate Judiciary Committee;
Sen. Diane Feinstein, Ranking Member, Senate Judiciary Committee;
Rep. Trey Gowdy, Chairman, House Oversight and Government Reform Committee;
Rep. Elijah Cummings, Ranking Member, House Oversight and Government Reform Committee