

December 19, 2017

SUBMITTED ELECTRONICALLY

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request for Records Pertaining to Definers Contract

Dear National Freedom of Information Officer:

Environmental Defense Fund (“EDF”) respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act (“FOIA”), of the U.S. Environmental Protection Agency (“EPA” or the “Agency”).

As used in this request:

- “Definers Contract” means EPA’s contract with Definers Corp., signed and effective December 7, 2017 (Procurement Instrument Number EP18H000025).
- “Definers Corp.” means the entity other than EPA that signed the Definers Contract, whether such entity is referred to in EPA records as “Definers,” “Definers Corp.,” “Definers Public Affairs,” or any other name.
- “Correspondence” includes hard-copy and electronic correspondence including, but not limited to, emails, voice mails, text messages, and correspondence transmitted through any other electronic platform. Correspondence is between two individuals whenever both individuals are included among the senders and/or recipients, regardless of who else may be included.

Specifically, EDF requests:

1. All records related to Definers Corp., including but not limited to any bid or proposal or the solicitation thereof; the complete, executed Definers Contract document, including any addenda, appendices, and attachments; any work product submitted under the Definers Contract; any request for, and record of disbursement of, payment under the Definers Contract; any records describing the purpose of the Definers Contract and the rationale for awarding it on a sole-source

basis; any correspondence regarding the termination of the Definers Contract¹ and the basis for such termination; and, to the extent not covered by the foregoing, any correspondence between EPA and any officer or employee of Definers Corp., whether or not such correspondence discusses the Definers Contract. For this element of the FOIA request (Element 1), EDF requests that EPA search the records of the following custodians:

- all political appointees in the Office of the Administrator,² including but not limited to the Office of Public Affairs, Office of Policy, Office of Executive Secretariat, and Office of Administrative and Executive Services; and
- all employees in the Office of Administration and Resources Management who
 - solicited, reviewed, approved, or otherwise worked on the Definers Contract; or
 - received, processed, approved, or otherwise worked on any payments or requests for payment under the Definers Contract.

2. All records:

- related to America Rising, including any records that reference America Rising, America Rising Corporation, America Rising Squared, or AR2 (collectively, “America Rising”), and including all correspondence between EPA and any officer or employee of America Rising; and
- related to Allan Blutstein, including all correspondence between EPA and Mr. Blutstein.

For this element of the FOIA request (Element 2), EDF requests that EPA search the records of the following custodians:

- all political appointees in the Office of the Administrator,³ including but not limited to the Office of Public Affairs, Office of Policy, Office of Executive Secretariat, and Office of Administrative and Executive Services; and
- all members of the Office of General Counsel’s FOIA Expert Assistance Team.

EDF respectfully seeks records produced, modified, or transmitted since November 8, 2016 that exist as of the date that EPA begins searching for records responsive to this request.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to five other FOIA

¹ See Brady Dennis, *EPA to end controversial contract with conservative ‘media monitoring’ firm*, Washington Post (Dec. 19, 2017), https://www.washingtonpost.com/news/energy-environment/wp/2017/12/19/epa-to-end-controversial-contract-with-conservative-media-monitoring-firm/?utm_term=.b82a5ddc4346.

² EPA may exclude appointees who work exclusively in the Office of Children’s Health Protection, Office of Civil Rights, Office of Congressional and Intergovernmental Relations, Office of Homeland Security, Office of Public Engagement and Environmental Education, Office of Small and Disadvantaged Business Utilization, and Science Advisory Board.

³ *Id.*

requests, EPA recently recognized EDF's eligibility for expedited processing on this basis.⁴ In support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, daily efforts to inform the public about matters involving environmental policy. For example, EDF has multiple channels for distributing information to the public, including through direct communication with its more than 2 million members, press releases, blog posts, active engagement on social media, frequent appearances by staff in major media outlets, and a website for posting documents released under FOIA.⁵
- (2) Definers Corp. is a public affairs consulting firm that purports to have "as deep of relationships [sic] with Republican and conservative organizations as anyone in Washington."⁶ America Rising describes itself as an "opposition research and communications firm whose mission is to help its clients defeat Democrats."⁷ Its non-profit affiliate, America Rising Squared, funded a campaign supporting Scott Pruitt's nomination as EPA Administrator.⁸
- (3) Definers Corp. and America Rising are closely linked. They are both located at 1500 Wilson Boulevard in Arlington, Virginia.⁹ They share numerous staff,¹⁰ and the Definers Corp. website states, "Our partners previously launched America Rising, the largest Republican research and rapid response operation which works directly with campaigns up and down the ballot as well as with the whole breadth of conservative advocacy groups."¹¹

⁴ See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

⁵ See, e.g., Oliver Milman, "No shame": How the Trump Administration Granted Big Oil's Wishlist, *The Guardian* (Dec. 12, 2017), <https://www.theguardian.com/us-news/2017/dec/12/big-oil-lobby-get-what-it-wants-epa-trump-pruitt> (quoting EDF Vice President Jeremy Symons); Martha Roberts, *Pruitt six months in: "taking a meat ax to the protections of public health and environment and then hiding it"*, EDF Climate 411 Blog (Aug. 30, 2017), <http://blogs.edf.org/climate411/2017/08/30/pruitt-six-months-in-taking-a-meat-ax-to-the-protections-of-public-health-and-environment-and-then-hiding-it/>; EDF Sr. Comms. Dir. Keith Gaby, Op-Ed, *Trump Ethical Storm: 7 Environmental Appointees with Conflicts of Interest* (May 10, 2017), https://www.huffingtonpost.com/entry/trump-ethical-storm-7-environmental-appointees-with-us_5913955ce4b016248243f165; EDF Vice President Jeremy Symons, *Did Trump's EPA Chief Just Rewrite the EPA's Mission?*, *Huffington Post* (Apr. 20, 2017), <http://www.huffingtonpost.com/entry/58efe8b7e4b0156697224dab>; EDF, *Promoting Government Transparency*, <https://www.edf.org/climate/promoting-government-transparency>.

⁶ Definers Public Affairs, *Services*, <https://www.definersdc.com/services>.

⁷ America Rising Corp., *About Us*, <https://americarisingscorp.com/about-us/>.

⁸ See Internet Archive, *Confirm Scott Pruitt for EPA Administrator*, <http://web.archive.org/web/20170217193132/http://confirmpruitt.com/> ("Paid for by ARSQUARED.org").

⁹ Compare Definers Public Affairs, *Contact Us*, <https://www.definersdc.com/contact>, with America Rising Corp., *Contact*, <https://americarisingscorp.com/contact/>.

¹⁰ Compare America Rising Corp., *About Us*, <https://americarisingscorp.com/about-us/>, with Definers Public Affairs, *Our Team*, <https://www.definersdc.com/team>.

¹¹ Definers Public Affairs, *Services*, <https://www.definersdc.com/services>.

- (4) On December 7, 2017, the Definers Contract was signed and went into effect.¹² The contract description is “news analysis and brief service focusing on EPA work and other topics of interest to EPA.”¹³ The contract was issued noncompetitively on the rationale that there was “only one source.”¹⁴
- (5) Allan Blutstein is a Senior Vice President at Definers Corp. and the Vice President, FOIA Operations at America Rising Corporation.¹⁵ Mr. Blutstein “has submitted at least 40 [FOIA] requests to the E.P.A. since President Trump was sworn in.”¹⁶ Mr. Blutstein explained that he was searching for anything that might embarrass EPA employees and further sought “anything that would be useful for Republicans.”¹⁷
- (6) The connections among Administrator Pruitt, EPA, America Rising, and Definers Corp. raise serious questions about potential misuse of resources and abuse of power by leadership of EPA. Although EPA awarded the Definers Contract noncompetitively on the basis of having “only one source,” an EPA spokesman also claimed that Definers Corp. is providing the same services as another vendor that EPA had previously used.¹⁸ America Rising provided political support for Administrator Pruitt’s nomination, and now its closely affiliated organization is benefiting from a no-bid EPA contract. Although EPA claims that Definers Corp. is providing the same news clipping services as a prior vendor,¹⁹ both Definers Corp. and America Rising are openly partisan and ideological organizations that specialize in supporting conservative political causes and campaigns.
- (7) The American people rely on EPA to protect their health and environment—a mission with life-or-death consequences. The revelations about Definers Corp. and America Rising raise the specter that knowledgeable, skilled EPA employees are being intimidated. This risks silencing employees who identify real public health and environmental threats—and pressuring out dedicated public servants who keep Americans safe. Although EPA has expressed its intention to terminate the Definers Contract following recent press scrutiny on this issue,²⁰ the subject matter of this FOIA request is of vital public concern due to the potential damage to EPA’s functionality and competence and long-term harm to the American people resulting from EPA’s relationship with Definers Corp. and America Rising.

¹² See USASpending.gov, *Transaction Details, Definers Corp. EP18H000025*, <https://www.usaspending.gov/transparency/Pages/TransactionDetails.aspx?RecordID=53D2AF0E-B566-47BB-8EB4-728DAC00CEB7&AwardID=59978626&AwardType=C>.

¹³ *Id.*

¹⁴ See *id.*

¹⁵ See Definers Public Affairs, *Our Team*, <https://www.definersdc.com/team>; America Rising, *About Us*, <https://americarisingscorp.com/about-us/>.

¹⁶ Eric Lipton & Lisa Friedman, *E.P.A. Contractor Has Spent Past Year Scouring the Agency for Anti-Trump Officials*, N.Y. Times (Dec. 15, 2017), <https://www.nytimes.com/2017/12/15/us/politics/epa-scott-pruitt-foia.html>.

¹⁷ *Id.*

¹⁸ See Eric Lipton & Lisa Friedman, *E.P.A. Employees Spoke Out. Then Came Scrutiny of Their Email*, N.Y. Times (Dec. 17, 2017), <https://www.nytimes.com/2017/12/17/us/politics/epa-pruitt-media-monitoring.html> (“Definers was awarded the contract to do our press clips at a rate that is \$87,000 cheaper than our previous vendor, and they are providing no other services,” a spokesman for the E.P.A., Jahan Wilcox, wrote in an email.”).

¹⁹ See *id.*

²⁰ See Brady Dennis, *supra* note 1.

(8) Administrator Pruitt has previously run for elected office, and political observers believe that he plans to do so again.²¹ It is deeply troubling that EPA has enlisted (on a noncompetitive basis) a firm specializing in political consulting to undertake news analysis for the Agency. This raises the possibility that the Administrator is using public funds to cull positive news coverage and enhance his public image to lay the groundwork for a future political campaign. Only a full understanding of the Definers Contract could resolve these concerns, which are of urgent public interest even if EPA proceeds to terminate the Definers Contract.

Request for Fee Waiver

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of issues of considerable public interest: whether EPA leadership is creating a hostile atmosphere for public servants entrusted with safeguarding the health and environment of the American people; and whether Administrator Pruitt is using public resources to advance his political aspirations. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. Moreover, we maintain a website specifically for the purpose of making records received under FOIA publicly available.²² We fully intend to disseminate newsworthy information received in response to this request. Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (202) 572-3318 or by email at blevitan@edf.org.

Respectfully submitted,

Benjamin Levitan
Environmental Defense Fund
1875 Connecticut Avenue, NW
Suite 600
Washington, DC 20009

²¹ See Emily Holden, *Is Scott Pruitt on the Campaign Trail?*, Politico (Aug. 21, 2017), <https://www.politico.com/story/2017/08/21/is-scott-pruitt-on-the-campaign-trail-241814>.

²² EDF, *Promoting Government Transparency*, <https://www.edf.org/climate/promoting-government-transparency>.