Dear Mr. Leopold:

This is a final response to a Freedom of Information Act (FOIA) request submitted to the Office of Science and Technology Policy (OSTP) on August 5, 2017, and received by OSTP on August 7, 2017. The request specifically requested “copies of the Acting Director’s calendar/schedule from January 20, 2017 through the date the search for responsive records is conducted.” On August 9, 2017, the request was modified to seek “appointments from the Acting OSTP Director’s calendar from January 20, 2017 through May 8, 2017” as well as “to cover the time period from May 9, 2017, through August 9, 2017.” The responsive records were to include “the Acting Director’s meetings with parties external to the Executive Office of the President, such as his meetings with other Federal agencies and with stakeholders.”

On August 9, 2017, OSTP issued an interim release containing one document totaling thirteen pages, which were released in part pursuant to Exemption Six of the FOIA. OSTP performed a search of its files for the additional records and located one record totaling 7 pages. After review, OSTP determined that the document should be withheld in part pursuant to Exemptions Five and Six of the FOIA. Below is an explanation of the exemptions and their application to the responsive record.

**FOIA Exemption Five**

Exemption Five of the FOIA permits the withholding of “interagency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” Accordingly, Exemption Five traditionally incorporates the civil discovery privileges: the deliberative process privilege, the attorney-client privilege, and the attorney work product privilege, among others. In this instance, the information being withheld under Exemption Five is protected from disclosure by the deliberative process privilege.

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1 5 U.S.C. § 552.
4 Id.
In order to qualify for the deliberative process privilege, the information must meet three requirements. First, it must be internal to the executive branch agencies. Second, the information must be pre-decisional, meaning it was prepared prior to an agency decision. Third, it must constitute a direct part of the deliberative process by offering recommendations or expressing opinions on legal or policy matters. Furthermore, while factual information is not usually considered deliberative, when the “facts themselves reflect the agency’s deliberative process” it may also qualify for withholding. Such a situation exists in cases where agency personnel “exercised their judgment” in compiling factual summaries and use discretion to differentiate between significant and non-significant facts. In this case, the information being withheld includes details about meetings with members of other Federal government agencies. The information withheld includes specific issues regarding ongoing matters and highlights areas that Federal government personnel believed warranted special consideration. The singling out of a particular issue area for attention is a discretionary determination by agency personnel and a deliberative act. Finally, the deliberative information withheld was created prior to any final agency action on the requested subject matters. Release of this information would chill internal debate and inhibit the free-flow of ideas among federal employees, thereby violating the interests protected by Exemption Five.

**FOIA Exemption Six**

Exemption Six of the FOIA protects the privacy interests of individuals. It permits an agency to protect information within “personal and medical files and similar files” if disclosure “would constitute a clearly unwarranted invasion of personal privacy.” To determine whether information may be withheld under Exemption Six, an agency must undertake a three-step analysis. First, the agency must determine whether a protectable privacy interest would be compromised by the disclosure of the record. If no privacy interest is identified, the information may not be withheld pursuant to the exemption. Second, the agency must determine whether the release of the document would further the public interest by shedding light on the operations and activities of the government. In cases where no public interest exists “even a modest privacy interest,” will outweigh it every time. Finally, the agency must balance the identified privacy interests against the public interest in disclosure. In this case, the names and e-mail addresses of candidates who were interviewed for positions at OSTP, but not selected for a position are being withheld. E-mail addresses of OSTP employees were, likewise, withheld. Individuals who apply for positions within the Federal government and are not selected have a privacy interest in ensuring that the details surrounding their unsuccessful applications not be distributed publicly. Similarly, OSTP employees have a privacy interest in maintaining the confidentiality of their email addresses as their release would potentially subject them to harassing

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7 Mapother v. Dep’t of Justice, 3 F.3d 1533, 1537 (D.C. Cir. 1993); Schell v. Health and Human Serv. ’s, 843 F.2d 933, 941 (6th Cir. 1988).
10 Montrose Chemical Corp. of California v. Train, 491 F.2d 63, 67-68 (D.C. Cir. 1974).
11 Russell v. Dep’t of the Air Force, 682 F.2d 1045, 1048 (D.C. Cir. 1982).
13 Id.
14 See Multi AG Media LLC v. Dep’t of Agric., 515 F.3d 1224, 1229 (D.C. Cir. 2008).
15 Id.
16 See id.
contact from the public regarding their issue areas. Moreover, the release of this information would not
shed light on the operations of the federal government. Accordingly, the privacy interests inherent in
the withheld information outweighs the public interest in release and the information may be withheld
pursuant to Exemption Six.19

Accordingly, this completes the processing of the request and OSTP now considers the request
closed. Pursuant to the FOIA and OSTP regulations, a requester may submit a written appeal
contesting any adverse determination.20 Any appeal related to the processing of this request must either
be sent: 1) via e-mail to OSTPFOIA@ostp.eop.gov; or 2) by mail to Chief FOIA Officer, Office of
Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Ave.,
NW., Washington, DC 20504.21 In the appeal letter, please specify OSTP Control No. 17-94, “the
records requested, and the basis for the appeal.”22 Any appeal must be sent to one of the above listed
addresses no later than ninety (90) calendar days of the date of this letter.23

Finally, requesters also have the right to seek dispute resolution services from OSTP’s FOIA
Public Liaison or the Office of Government Information Services (OGIS). To employ these services,
please contact Andrew Mendoza via telephone at (202) 456-4444 or by way of e-mail at
OSTPFOIA@ostp.eop.gov. To contact OGIS, please do so in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphia Road-OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: (202) 741-5770
Fax: (202) 741-5769
Toll-free: 1 (877) 684-6448

If there are any questions, please do not hesitate to contact me via telephone or by way of e-
mail.

Sincerely,

Andrew G. Mendoza
Legal Counsel and Policy Advisor

21 32 C.F.R. § 2402.7(b).
22 Id.
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Participants:
- Laity, Jim A.
- Whiteman, Chad S.
- Thomas, Amanda L.
- McInley, Mike H.
- Moran, John S.
- Jain, Varun M.
- Veprek, Andrew M.
- Katz, Jeremy L.
- Catanzaro, Michael J.
- Starling, Ray A.
- Olmstead, Sheila M.
- EOP/CEA: Langburd, Nataliya
- EOP/OVP: Pinkos, Stephen M.
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- EOP/WHO: Hickey, Mike J.
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Black, Samuel J. EOP/OMB
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Wackler, Ted M. EOP/OSTP;Klein, Ethan A. EOP/OSTP
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<td>Phone Call: Dr. Gross &amp; Mr. Wackler (Personnel &amp; Site Visits)</td>
<td>7/13/2017</td>
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<tr>
<td>WH Fellow Interview</td>
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<tr>
<td>WH Fellow Interview</td>
<td>7/13/2017</td>
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<tr>
<td>Call with Paul Shawcross</td>
<td>7/14/2017</td>
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<tr>
<td>USA Performance Demo</td>
<td>7/18/2017</td>
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<tr>
<td>Invitation: WHLDP Interview Panel @ Wed. Jul 19, 2017 1pm - 4pm (EDT)</td>
<td>7/19/2017</td>
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<tr>
<td>Brian Stone</td>
<td>7/20/2017</td>
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<tr>
<td>Duane Blackburn</td>
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<tr>
<td>Brian / Ted sync</td>
<td>7/27/2017</td>
<td>9:00 AM</td>
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<tr>
<td>Interview: Ted Wackler and OMB Matt O'Kane to discuss Vega Derived Launch Vehicle (Charlie Precourt and Wendy Williams)</td>
<td>8/1/2017</td>
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<tr>
<td>Chavonda Jacobs Young</td>
<td>8/3/2017</td>
<td>12:00 PM</td>
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</table>

This list includes various scheduled appointments, interviews, and meetings, each with specific dates, times, and participants. The affiliations listed represent the organizations or entities associated with each event.
<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Event Description</th>
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<tbody>
<tr>
<td>8/3/2017</td>
<td>10:00 AM</td>
<td>Interview: Dr. Guillermo Mendoza</td>
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<tr>
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<td>Brian / Ted sync at NSF</td>
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<tr>
<td>8/7/2017</td>
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<td>Jared Stout</td>
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<td>8/14/2017</td>
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<td>Skype Phone Interview: Sara Brenner</td>
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**Notes:**
- EOP/OSTP
- EOP/OMB
- EOP/NSC