

Congress of the United States
Washington, DC 20515

May 24, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

Dear Mr. Administrator:

We write with questions regarding the legal defense fund you recently established. We believe that creating transparency and establishing the details of this fund are vital to preventing further ethical mishaps.

In a May 16 hearing of the Senate Appropriations Subcommittee on the Interior, Environment, and Related Agencies, you were asked to verify a report that you had created a legal defense fund.¹ You responded in the affirmative: “It’s been done,” and pledged to refuse donations to this fund from lobbyists or corporations with business before the EPA. You did not explicitly confirm, however, that this legal defense fund will reject donations from anonymous sources.

We understand your purpose in creating such a fund, given the investigations into your misconduct by the House of Representatives, Senate, White House, Office of Management and Budget, and the Government Accountability Office, and the many reviews being conducted by the EPA Office of the Inspector General (OIG).² We have serious misgivings, however, about the potential ethical problems raised by such a fund, given your abysmal track record in such matters. We urge you to take all possible steps to mitigate any potential for conflicts of interest.

We are particularly concerned about the potential for lobbyists and special interests to curry favor at the EPA, or to affect decisions made by you or your subordinates, by donating to this legal defense fund. While we appreciate your pledge not to accept donations from those who lobby the EPA, we are aware that you previously misrepresented details about financial

¹ Coral Davenport, “Two Top Aides to Scott Pruitt Quit the E.P.A. Unexpectedly,” *New York Times*, May 1, 2018 <https://www.nytimes.com/2018/05/01/climate/epa-kelly-perrotta-resignations.html>

² Josh Siegel, “Scott Pruitt Faces a Dozen Investigations With New Probe of Email Accounts,” *Washington Examiner*, May 15, 2018 <https://www.washingtonexaminer.com/policy/energy/scott-pruitt-faces-a-dozen-investigations-with-new-probe-of-email-accounts>

transactions with lobbyists who had business before the agency.³ There are also unanswered questions about your past business dealings with lobbyists who had business interests before the Oklahoma legislature while you were a member of the Oklahoma Senate.^{4,5,6} As such we feel that your verbal assurances on this point must be accompanied by independent, official verification of the propriety of all donations to your legal defense fund.

In your May 16 testimony to the Senate, you said that you worked with your attorneys to ensure that your legal defense fund complied with laws and regulations. We again note, however, your track record in this area. In the same testimony, you admitted to accepting a gift from a subordinate without compensation, a violation of 5 CFR Part 2635, the same section of federal regulations which provides the basis for rules about legal defense funds.⁷

We are also concerned about the possibility of anonymous donations to your legal defense fund, as such donations could easily bypass prohibitions on donations from lobbyists and special interests with business before the EPA. We note that, while federal regulations merely require the disclosure of donations above \$390, recent guidance from the Office of Government Ethics (OGE) advises “that the instruments establishing legal defense funds include a clause stating that ‘contributions shall not be accepted from anonymous sources.’”⁸

We anticipate that you or your subordinates at the EPA may respond to inquiries about your legal defense fund by directing them to your attorneys. Congress has a duty, however, to exercise oversight in this area, given the extent to which donations to this fund reflect on regulatory activities by the EPA, and to make every effort to ensure that this fund in no way impacts EPA decision-making. We therefore address this inquiry to you.

Based on the information above, we seek answers to the following questions:

1. Will you refuse to accept any funds donated from anonymous sources, as recommended by OGE, even if they fall below the statutory \$390 threshold?
2. Will EPA ethics officials pre-screen all donations to your legal defense fund to ensure that no donors are federal employees, foreign governments, or prohibited sources as defined in 5 C.F.R. 2634.203? If so, how? If not, why not?
3. How will prohibited sources be identified?

³ Eric Lipton, “Scott Pruitt Met With Lobbyist Whose Wife Rented Him a \$50-a-Night Condo,” *New York Times*, April 21, 2018 <https://www.nytimes.com/2018/04/21/climate/pruitt-hart-condo-epa-lobbying.html>

⁴ Letter from Congresswoman Diana DeGette to EPA Administrator Scott Pruitt, May 4, 2018

<https://degette.house.gov/sites/degette.house.gov/files/20180504%20Pruitt%20Oklahoma%20House%20Letter.pdf>

⁵ Steve Eder and Hiroko Tabuchi, “Scott Pruitt Before the E.P.A.: Fancy Homes, a Shell Company and Friends With Money,” *New York Times*, April 21, 2018 <https://www.nytimes.com/2018/04/21/us/politics/scott-pruitt-oklahoma-epa.html>

⁶ Steve Eder and Hiroko Tabuchi, “Pruitt’s Coziness With Lobbyists Includes Secretly Buying a House With One,” *New York Times*, May 3, 2018 <https://www.nytimes.com/2018/05/03/us/scott-pruitt-lobbyist-house.html?smid=tw-share>

⁷ Code of Federal Regulations, Chapter 5, Part 2635: Standards of Ethical Conduct for Employees of the Executive Branch <https://www.law.cornell.edu/cfr/text/5/part-2635>

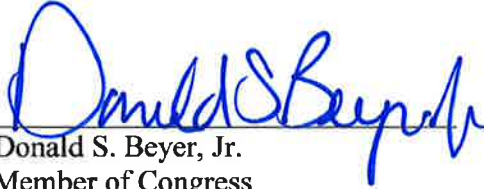
⁸ Acting Director David J. Apol, Office of Government Ethics Legal Advisory, September 28, 2017 [https://www.oge.gov/web/oge.nsf/0/DACCD72B29936DB8852581A900497C51/\\$FILE/LA-17-10.pdf](https://www.oge.gov/web/oge.nsf/0/DACCD72B29936DB8852581A900497C51/$FILE/LA-17-10.pdf)

4. Will prohibited sources include those holding positions with an entity regulated by the EPA, or representing or acting on behalf of a regulated entity? If not, why not?
5. Will you recuse from matters before the EPA in which donors are parties or represent parties, pursuant to 5 C.F.R. 2635.502 or any other applicable authority? If so, how? If not, why not?
6. Following the receipt of a donation, will you decline to meet with the donor in your official capacity to avoid any appearance of violating 5 C.F.R. 2635.702? If so, for how long? If not, why not?
7. How will you or the trustee of your legal defense fund solicit donations?
8. Will you refuse to accept funds donated by 501(c)(4) organizations, shell companies or holding firms, or any other political or corporate entities which do not make full disclosure of their membership, and the original source of every dollar to your legal defense fund?
9. Will you establish a mechanism for agency ethics officials to audit the records of donations to your legal defense fund, so that they may ensure your compliance with the duty to disclose all donations in your financial disclosure report?
10. Have you or your legal defense fund received any donations yet? If so, please identify all sources that have donated money regardless of threshold.
11. Did you consult EPA ethics officials before establishing this fund? If not, why not?
12. Has anyone indicated that they have or would contribute money to help with your legal expenses because of your position at the EPA, or because they wish to see you remain in that position, or words to that effect?
13. How is your legal defense fund structured? Please provide us a copy of the trust agreement or other documentation establishing your legal defense fund.
14. Who is the manager or trustee of your legal defense fund, and who made the determination that this individual is not a prohibited source?
15. Are you permitted to use the money in your legal defense fund for any purpose other than legal fees associated with your position as EPA Administrator? Please explain.
16. Has the Patriot Legal Expense Fund Trust, LLC distributed any money to you, on your behalf, or for the purposes of covering part of your legal fees?
17. Have you used any campaign-related funds for to pay any of your legal expenses?
18. Will you promptly report all donations to your legal defense fund to Congress, and to the public? If so, how? If not, why not?

We are aware that you may be permitted, under OGE guidance, to avoid making public disclosures of donations to his legal defense fund until May of 2019. We strongly urge against any such delay in transparency, as lax disclosure would worsen already-severe mistrust of your leadership by Congress and the public.

We would appreciate your timely responses to these questions.

Sincerely,



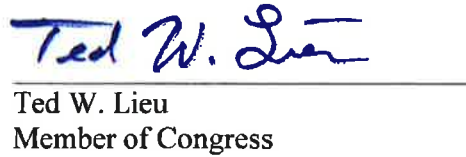
Donald S. Beyer, Jr.
Member of Congress



Jerrold Nadler
Member of Congress



Gerald E. Connolly
Member of Congress



Ted W. Lieu
Member of Congress



Jamie Raskin
Member of Congress

cc:

David J. Apol, Acting Director, Office of Government Ethics, 1201 New York Avenue, N.W.
Suite 500, Washington, D.C. 20005;

Gene Dodaro, Comptroller General, U.S. Government Accountability Office, 441 G St, N.W.,
Washington, D.C., 20548