

United States Senate

WASHINGTON, DC 20510

May 21, 2018

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

Dear Administrator Pruitt:

We write to follow up on your testimony before the Senate Committee on Appropriations, Subcommittee on Interior, Environment and Related Agencies on May 16, 2018. At the hearing, you confirmed that you have set up a legal defense fund. While you did commit to not accept any donations to your legal defense fund from lobbyists or corporations that have business before the EPA, we are seeking further clarification about your testimony on several points, including publicly disclosing all donations and the matter of anonymous donations.

You committed that donations to your legal defense fund will be made public, and then indicated that the public disclosure will be done “pursuant to the requirements of disclosures.” The Office of Government Ethics (OGE) recommends public disclosure of legal defense fund donors consistent with federal rules concerning the disclosures of gifts.¹ Those rules require disclosure of contributions as part of your annual financial disclosures, but that could delay disclosure for well over a year. Furthermore, OGE also advises that “the instruments establishing legal defense funds include a clause stating that ‘contributions shall not be accepted from anonymous sources.’”² However, even if you do comply with that recommendation, there is significant ambiguity as to what constitutes an anonymous source. A donation from a 501(c)(4) or a shell corporation may conceal the identity of the actual donor to your fund.

Without further clarification of these issues, your legal defense fund may lead to more complaints that you may be violating the public trust. We believe a person in your position should regularly and publicly disclose all donors to a legal defense fund, taking care to determine the true source of donations and avoiding any appearance of a conflict of interest. To help us ascertain whether you will keep the public sufficiently informed of your defense fund’s donations, we request that you provide us with answers to the following questions:

1. Have you consulted with OGE about the legal defense fund? Did OGE review all relevant documents governing the fund? Have you followed all advice provided to you by OGE?
2. Has EPA’s Designated Agency Ethics Official (DAEO) approved the structure of your legal defense fund?

¹ See <https://www.oge.gov/Web/278eGuide.nsf/Content/FAQs~FAQs:+Gifts+and+Travel+Reimbursements>

² Office of Government Ethics, LA 17-10, Sept. 28, 2017 available at [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)

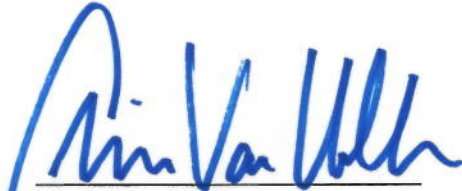
3. Will the legal defense fund include a screening process for the names of potential donors to be submitted in advance to the DAEO to seek a determination as to whether the contribution is from a prohibited source or has business before the agency? If so, please describe the screening process that will be put in place.
4. Will the legal defense fund provide the names of all donors to EPA's DAEO? Will you commit to providing that information no less frequently than on a monthly basis?
5. Will you publicly disclose the identities of all contributors to your legal defense fund no less frequently than on a monthly basis?
6. What steps are being taken to ascertain whether any contributors, their employers, clients, or any entity in which they have a beneficial interest, have business before EPA? Do you commit to providing that information to the DAEO? How frequently will that information be provided?
7. Do you agree to submit to the DAEO all relevant information about your past or present contacts with contributors to your legal defense fund so he can determine whether any steps must be taken by you to comply with the Ethics in Government Act?
8. Will you allow contributions to your legal defense fund to be made by lobbyists (or their spouses) whose firms represent clients with business in front of EPA?
9. Will you allow contributions to your legal defense fund to be made by individuals (or their spouses) who work for companies with business in front of EPA?
10. Will you accept contributions from EPA employees (or their spouses)?
11. Will you accept anonymous contributions to be made to your legal defense fund?
12. Will you accept contributions from 501(c)(4) organizations or contributions from corporate entities, the beneficial owner(s) of which are not publicly known? If you will, how will you ensure that no one with business before EPA has contributed to your defense fund through one of these entities?
13. Will you be transferring political campaign funds, political party funds, or PAC funds to your legal defense fund, or will you be using monies from one or more of those sources to supplement your legal defense fund?
14. The Office of Government Ethics advises that legal defense funds must be operated consistent with "rules regarding the acceptance of gifts from outside sources"³. That includes compliance with the Office of Government Ethics' exception to the gifts rules that allow an employee to accept "a gift valued at \$20 or less, provided that the total value of gifts from the same person is not more than \$50 in a calendar year."⁴ Accordingly, please confirm that you do not intend to accept more than \$50 from the same person in one calendar year.

In addition to these questions, we are also requesting that you provide copies of all documents establishing your legal defense fund as well as copies of all documents related to the fund that were provided to you by EPA's ethics officials within ten business days.


³ Id.

⁴ <https://www2.oge.gov/Web/oge.nsf/Resources/Gifts+from+Outside+Sources>


Sincerely,



Chris Van Hollen
United States Senate



Thomas R. Carper
United States Senate



Tom Udall
United States Senate



Sheldon Whitehouse
United States Senate