

consumer protection issues. In particular, Public Citizen works to promote openness in government and collects and disseminates information related to agency accountability.

4. Defendant OMB is an agency of the United States and has possession of and control over the records Plaintiff seeks.

STATEMENT OF FACTS

5. On December 8, 2006, Public Citizen submitted a FOIA request to OMB for lists of agencies that are allowed to transmit legislative and/or budgetary materials to Congress without first submitting them to OMB for coordination and clearance. In particular, Public Citizen requested

- 1) All records listing agencies that may directly submit legislative proposals, reports, or testimony to Congress without receiving OMB clearance;
- 2) All records listing agencies that may directly submit budget-related materials to Congress without receiving OMB clearance; and
- 3) All records explaining that agencies or an agency may directly submit legislative or budget-related materials to Congress without receiving OMB clearance or providing statutory authority for agencies or an agency to directly submit legislative or budget-related materials to Congress without receiving OMB clearance.

6. By letter dated January 10, 2007, and signed by Lauren E. Wright, Deputy Assistant Director for Administration, OMB partially denied Public Citizen's request. Ms. Wright informed Public Citizen that OMB had found two documents that were "potentially responsive" to its request, but that she had decided that the documents are exempt from mandatory disclosure under FOIA Exemptions 2 and 5, 5 U.S.C. §§ 552(b)(2) & (5), because the

“documents relate to OMB’s internal personnel rules and practices and, to the extent that they contain information that extends beyond such rules and practices, the documents contain predecisional and deliberative information, the disclosure of which would harm the decision-making process.” Ms. Wright enclosed a document that contained a list of “Statutes that Address the Direct Submission of Legislative Materials (and the agency concerned)” and a list of “Statutes that Address the Direct Submission of Budget Materials (and the agency concerned).”

7. By letter dated January 18, 2007, Public Citizen appealed OMB’s denial. It explained that FOIA Exemptions 2 and 5 do not apply to the requested records. It also appealed the adequacy of OMB’s search for records, noting that it had requested any record explaining that any agency can submit legislative or budgetary materials to Congress without receiving OMB clearance, and that it was difficult to believe that an adequate search for records responsive to the request would turn up only two records.

8. By letter dated February 26, 2007, and signed by Kimberley Luczynski, Acting Deputy General Counsel, OMB denied Public Citizen’s appeal, asserting that its search was sufficient and that “the two documents referenced in our January 10, 2007 letter have been properly withheld pursuant to FOIA Exemptions (b)(2) and (b)(5).”

9. Plaintiff has a statutory right to the records it seeks, and there is no legal basis for Defendant’s failure to disclose them to Plaintiff.

CLAIMS FOR RELIEF

WHEREFORE, Plaintiff requests that this Court

- A) Declare that Defendant’s failure to disclose records requested by Plaintiff is unlawful;
- B) Order Defendant to make all the requested records available to Plaintiff;

C) Award Plaintiff its costs and reasonable attorneys' fees pursuant to 5 U.S.C.

§ 552(a)(4)(E); and

D) Grant such other and further relief as this Court may deem just and proper.

Respectfully submitted,

/s/

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