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October 24, 2018

Emmet T. Flood  
Office of the White House Counsel  
The White House  
1600 Pennsylvania Ave NW  
Washington, D.C. 20500

Dear Mr. Flood:

We write today to request information regarding the White House's compliance with the laws and regulations that govern payment of expenses associated with President's travel for political or campaign-related purposes, including the costs of operating Air Force One.

Under the legal requirement associated with the use of appropriated funds and Federal Election Commission regulations, the President's travel for political purposes must be paid with funds from national party or candidate campaign committees and not by taxpayers.<sup>1</sup> The payment of these expenses with political funds ensures that funds appropriated by Congress are not used to advance the interest of any political parties or candidates.

When the President engages in a combination of official and political purposes during the same trip, the White House determines which travel costs are official or political, and apportions expenses between appropriated and political funds accordingly. The White House must also calculate the expenses associated with operating Air Force One for political travel according to specific formulas set forth by the FEC.<sup>2</sup>

However, the White House's calculations of travel expenses can be especially challenging when the President travels to what is intended as an official event, but then engages in impromptu partisan activity, including the promotion of political candidates and his party. In these instances, the White House must retroactively apportion expenses between appropriated

<sup>1</sup> 31 U.S.C. § 628; 11 CFR 100.93.

<sup>2</sup> 11 CFR 100.93(e)(1)(i); The U.S. Air force has estimated that Air Force One costs approximately \$200,000 per flying hour. Letter from the Department of the Air Force, Headquarters Air Mobility Command to Judicial Watch (May 13, 2015).

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and political funds and seek reimbursements on behalf of taxpayers from the appropriate party or candidate campaign committees.

Since the President assumed office, there have been multiple instances of when he has traveled to official events and then promoted the partisan aims of his party or political candidates. For example:

- On July, 26, 2018, the President traveled to an official event in Granite City, Illinois where he advocated for the election of a pair of candidates to the U.S. House of Representatives.<sup>3</sup>
- On July 24, 2018, the President Trump traveled to an official event in Kansas City, Missouri where he advocated for the election of a candidate to the U.S. Senate. Following this event, the President delivered remarks at a joint fundraising event for the same candidate.<sup>4</sup>
- On September 14, 2017, the President traveled to an official event in Fort Myers, Florida where directly prior to delivering his official remarks he advocated for a potential candidate to join the U.S. Senate race in Florida.<sup>5</sup>

While records filed with the FEC indicate that his campaign committee have made some payments for the President's political travel, the frequent blurring of the lines between political activities and official events raises questions regarding how the White House has apportioned expenses, and to what extent any payments have been sought retroactively on behalf of taxpayers. It also remains unclear if and how the White House retains records sufficient to substantiate any characterization of an event or trip as political or official.

It is essential that taxpayer dollars are not used to subsidize partisan political activities and that the White House comply with all laws and regulations that govern payment of expenses associated with President's travel. Accordingly, we seek responses to the following requests and questions:

1. Please provide copies of any White House policies, procedures, or guidance related to the payment of expenses associated with President's travel for mixed official and political purposes, including how specific travel costs are determined to be official or political in character.
2. Has the White House retroactively sought payments for the portions of official or mixed travel that was political in character? If so, please list the events for which reimbursements were received, the party or candidate campaign committees which made reimbursements, and the reimbursements amounts.

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<sup>3</sup> *Trump uses taxpayer-funded trip to campaign for GOP candidates*, Washington Post (July, 26, 2018).

<sup>4</sup> *Trump's Pitches for GOP Candidates at Official Events Draw a Hatch Act Complaint*, Wall St. J. (Sept. 12, 2018).

<sup>5</sup> *Trump pushes Rick Scott to run for Senate during Irma recovery visit*, Politico (Sept. 14, 2017).

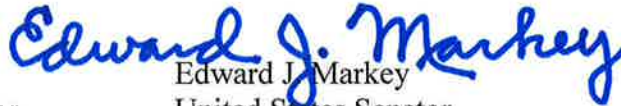
3. In instances when the White House has retroactively sought payments, please provide any records, including but not limited to, trip proposals, reports, memos, spreadsheets, invoices, bills, pre-payment estimates, wire transfers, or other documentation, sufficient to substantiate any characterization of the President's travel political or official.
4. Please identify the specific travel accounts maintained by the Office of Administration that have received pre-payments or reimbursements for the President's political travel.
5. Has the White House provided guidance to agencies on how to retroactively seek payments for the portions of official or mixed travel that was political in character? If so, how were agencies advised to calculate costs such as travel costs and salaries of staff, including advance staff, per diems, and other incidental expenses incurred by federal employees that cannot be paid for using appropriated funds.
6. Has the White House received any advice or guidance from the Department of Justice, Federal Election Commission, or the Office of Special Counsel related to the payment of expenses associated with President's travel for mixed official and political purposes? If so, please describe this advice or guidance.

We ask that you provide a response by November 7, 2018. Please contact Senator Wyden's investigative staff at 202-224-5244 with any questions. Thank you for your attention to this matter.

Sincerely,



Ron Wyden  
United States Senator



Edward J. Markey  
United States Senator



Jeffrey A. Merkley  
United States Senator

cc: The Honorable Caroline C. Hunter, Chairman  
Federal Election Commission

The Honorable Henry Kerner, Special Counsel  
Office of Special Counsel