

CREW | citizens for responsibility and ethics in washington

February 3, 2017

The Honorable Donald F. McGahn
White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. McGahn:

Once again Citizens for Responsibility and Ethics in Washington (“CREW”) calls on President Donald Trump to comply fully and immediately with the requirements of the Federal Advisory Committee Act (“FACA”), 5 U.S.C. App. § 3, with respect to his CEO advisory council, which met for the first time today. This latest lapse joins a growing number of White House advisory groups the president has established and is using to receive input on a variety of business-related and other issues without complying with the FACA.

Just last week, President Trump met with CEOs from a dozen manufacturing companies after which the White House announced it was forming a “Manufacturing Jobs Initiative” that included 28 CEOs and labor leaders.¹ Although the White House has attempted to put this entity beyond the reach of the FACA by using certain “magic” words – namely the claim that the group is not expected to provide “consensus advice or recommendations” – the actual function of the group will determine whether or not it is subject to the FACA. According to Dow Chemical, whose CEO Andrew Liveris is organizing the first series of meetings, the purpose of the group is to “offer perspectives and information to President Trump and his Administration on a variety of policy priorities that will spur job growth and productivity in the U.S. manufacturing sector.” To accomplish this goal the group “will help identify and work with experts from across the country to make U.S. manufacturing more competitive.”² Directly after the group’s first meeting, Mr. Liveris told reporters that “the White House wanted the CEOs to present recommendations in 30 days.”³ A name change cannot obscure the actual workings of this so-called “initiative,” or any other group that includes non-federal members used by the president to obtain recommendations on steps and directions he should take.

The CEO advisory council that is meeting today also has all the earmarks of a FACA committee. One of the council’s members, Tesla and Space X CEO Elon Musk, already has announced he will use today’s meeting to “seek advisory council consensus & present to

¹ Press Release, The White House, “President Trump Announces Manufacturing Jobs Initiative” (Jan. 27, 2017).

² Press Release, Dow Chemical Company, “Statement Regarding Manufacturing Jobs Initiative,” (Jan. 27, 2017) (available at <http://www.dow.com/en-us/news/press-releases/dow-statement-regarding-manufacturing-jobs-initiative>).

³ Steve Toloken, *Newell CEO Named to Manufacturing Jobs Initiative*, *Plastic News* (Jan. 30, 2017) (available at <http://www.plasticsnews.com/article/20170130/NEWS/170139989/newell-ceo-named-to-manufacturing-jobs-initiative>).

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President” proposed changes to President Trump’s immigration executive order.⁴ The presence of consensus advice and recommendations, as expressed by Musk, places the CEO advisory council squarely within the FACA.

The FACA’s requirements, including disclosure of committee documents, the filing of a charter, public notice of meetings, and preparation and disclosure of meeting minutes, serve vital public interests. Americans are entitled to know who outside of government is influencing and helping in the formulation of administration policy on issues that directly affect them. Unfortunately, President Trump’s conduct to date suggests a disregard for the legal requirements the FACA imposes and a penchant for secrecy that disserves our democracy.

We therefore respectfully request that you ensure that the president’s CEO advisory council as well as his Manufacturing Jobs Initiative, and any other non-complying advisory committees, come into compliance with the statutory requirements of the FACA.

Sincerely,



Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics in Washington

⁴ <https://twitter.com/elonmusk/status/825809205244223488>.