

December 18, 2020

BY EMAIL: FOIARequest@hhs.gov

Brandon Gaylord
Freedom of Information Officer
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of Health and Human Services (“HHS”) regulations.

Specifically, CREW requests all emails from February 1, 2020 to October 1, 2020 sent or received by Dr. Paul E. Alexander, former Senior Policy Advisor to the Assistant Secretary for Public Affairs, in which Dr. Alexander used any of the following key terms:¹

- “Herd”
- “Immun!” (including “immunity” or “immunize” or “immunocompromised”)
- “Infect!” (including “infect” or “infectious” or “infected”)
- “MMWR”
- “Antibodies”
- “Vaccin!” (including “vaccine” or “vaccinated”)
- “Fauci”
- “President”
- “Trump”
- “White House”
- “WH”
- “The administration” or “This administration”
- “Democrat”
- “Lock!” (including “locked” or “lockdown”)
- “University”
- “College”
- “School”
- “Students”
- “Teachers”

¹ The below key terms are provided on the understanding that the agency can utilize standardized Boolean or wildcard search operators (such as “!”); in the event that the agency cannot do so, CREW has also specified variations of certain terms that are within the scope of its request.

- “Children”
- “Kids”
- “Teens”
- “Young”

This request seeks the full email threads in which Dr. Alexander used any of the above key terms, including any emails sent in response to such emails by Dr. Alexander.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. *See* 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. *See Mead Data Central v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, HHS should institute an agency-wide preservation hold on documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and HHS regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. *See* 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. *See, e.g., McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

Recent reporting has revealed that Dr. Paul Alexander, a former “top Trump appointee” at HHS, “repeatedly urged top health officials to adopt a ‘herd immunity’ approach to Covid-19 and allow millions of Americans to be infected by the virus.”² Among other shocking statements, publicly released emails show that Dr. Alexander wrote to agency officials that “[i]nfants, kids, teens, young people, young adults, middle aged with no conditions etc. have zero to little risk . . . so we use them to develop herd . . . we want them infected.”³ Dr. Alexander also urged agency officials to modify scientific reports he perceived as damaging to President Trump, and “was

² Dan Diamond, [‘We want them infected’: Trump appointee demanded ‘herd immunity’ strategy, emails reveal](https://www.politico.com/news/2020/12/16/trump-appointee-demanded-herd-immunity-strategy-446408), *Politico*, Dec. 16, 2020, <https://www.politico.com/news/2020/12/16/trump-appointee-demanded-herd-immunity-strategy-446408>.

³ *Id.*

effective at delaying the [CDC's] famed Morbidity and Mortality Weekly Reports and watering down guidance that came from his agency.”⁴ The requested emails would shed further light on Dr. Alexander's political interference with the federal government's response to COVID-19, a matter of compelling public interest.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a “representative of the news media” and broadly interpreting the term to include “any person or organization which regularly publishes or disseminates information to the public”).

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

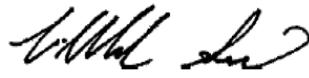
If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or nsus@citizensforethics.org. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at either nsus@citizensforethics.org or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, 1101 K St., N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance.

⁴ *Id.*

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Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Nikhel Sus
Senior Counsel