



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

March 12, 2021

SENT VIA EMAIL: FOIARequest@hhs.gov

FOIA Officer

Department of Health and Human Services

Hubert H. Humphrey Building, Room 729H

200 Independence Avenue SW

Washington, D.C. 20201

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Department of Health and Human Services (“HHS”) regulations at 5 C.F.R. part 2604.

Specifically, CREW requests the following:

1. Any communications between National Coordinator for Health Information Technology Dr. Donald Rucker and Dr. Bruce Moskowitz.
2. Any communications between Dr. Rucker and Aaron Moskowitz.
3. Calendar entries for Dr. Rucker showing any meetings or calls with Dr. Moskowitz.
4. Calendar entries for Dr. Rucker showing any meetings or calls with Aaron Moskowitz.
5. Any communications to or from Dr. Rucker regarding Dr. Moskowitz.
6. Any communications to or from Dr. Rucker regarding Aaron Moskowitz.

Please search for records created from April 1, 2017 to January 20, 2021.



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Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records.

If it is your position that 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). If 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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency 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).



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Calendar entries for then-Centers for Medicare and Medicaid Services Seema Verma show a scheduled call with Verma, a White House official, Dr. Moskowitz and a “Dr. Rucker” on January 29, 2018.¹ While the identity of the Dr. Rucker listed is unclear, it may refer to Dr. Donald Rucker given that he participated in a summit on a medical device registry that Dr. Moskowitz pushed for with his contacts at the Department of Veterans Affairs (VA).² Though Dr. Moskowitz was not a government official, he enjoyed regular access to and influence over officials at the VA along with two other members of former President Donald Trump’s club Mar-a-Lago.³ The requested records are likely to contribute to greater public understanding of whether his access and influence extended to HHS. Given the public reporting about Moskowitz’s ties to the VA, these records are of significant interest to the public.⁴

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 any 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

¹ Meredith Lerner and Lauren White, [Mar-a-Lago member Bruce Moskowitz had contacts with the White House and CMS](https://bit.ly/3t5wIIA), *CREW*, March 12, 2021, <https://bit.ly/3t5wIIA>.

² Isaac Arnsdorf, [The Shadow Rulers of the VA](https://bit.ly/3rdHE02), *ProPublica*, Aug. 7, 2018, <https://bit.ly/3rdHE02>; EmailsJHBto622181Redacted at 79-80, 224, *ProPublica*, <https://bit.ly/3q91QBg>.

³ Isaac Arnsdorf, [The Shadow Rulers of the VA](https://bit.ly/3rdHE02).

⁴ Isaac Arnsdorf, [The Shadow Rulers of the VA](https://bit.ly/3qdCXBL); U.S. Gov’t Accountability Off., [Private Citizens’ Involvement in Decision-Making at the Department of Veterans Affairs](https://bit.ly/3qdCXBL), May 4, 2020, <https://bit.ly/3qdCXBL>.



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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 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) 897-1845 or foia@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 foia@citizensforethics.org. If HHS is not able to provide the records electronically, please contact me to arrange an alternative method of transmission. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "ML", is positioned above the typed name.

Meredith Lerner
Senior Researcher