



CITIZENS FOR  
RESPONSIBILITY &  
ETHICS IN WASHINGTON

January 29, 2021

**BY EMAIL:** [FOIA@stateoig.gov](mailto:FOIA@stateoig.gov)

FOIA Officer  
Office of General Counsel  
Office of Inspector General  
U.S. Department of State  
1700 North Moore Street  
Suite 1400  
Arlington, VA 22209

**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 State regulations.

Specifically, CREW requests every annual audit report regarding the State Department’s expenditures from the Emergencies in the Diplomatic and Consular Service appropriation (also known as the “K Fund”) issued by the Office of Inspector General to Congress pursuant to 22 U.S.C. § 2671(c) since January 1, 2018.

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, the State Department 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 State Department 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).

The Emergencies in the Diplomatic and Consular Service appropriation (the “K Fund”) is “used to meet unforeseen emergency requirements in the conduct of foreign affairs, including evacuations of personnel and their families overseas, and, in certain circumstances, private U.S. citizens and third country nationals; travel and representational expenses; confidential payments; urgent medical and travel expenses related to natural disasters or terrorist incidents; and other authorized activities that further the realization of foreign policy objectives.”<sup>1</sup> Under 22 U.S.C. § 2671(c), the State Department Inspector General must periodically audit K Fund expenditures to ensure they are in accordance with law, and issue an annual audit report to Congress.

During his tenure as Secretary of State, Mike Pompeo frequently used money from the K Fund on events that appeared to be designed to further his own political ambitions, rather than the Department’s foreign policy objectives. The most noteworthy example is the former Secretary’s Madison Dinners, a series of lavish events with private-sector invitees including “[b]illionaire CEOs” and “Republican megadonors.”<sup>2</sup> The dinners drew widespread concerns about potential abuses of “federal resources to cultivate a donor and supporter base for Pompeo’s political ambitions.”<sup>3</sup> Former State Department Inspector General Steve Linick reportedly made an inquiry into the office that organized the Madison Dinners shortly before he was fired.<sup>4</sup>

The requested records will shed light on the Inspector General’s audits, if any, of K Fund expenditures during former Secretary Pompeo’s tenure—an issue 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

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<sup>1</sup> Dep’t of State, Emergencies in the Diplomatic and Consular Service, <https://bit.ly/2MeBNbh>; *see also* 22 U.S.C. § 2671.

<sup>2</sup> Josh Lederman, Laura Strickler and Dan De Luce, [Pompeo’s elite taxpayer-funded dinners raise new concern](https://nbcnews.to/3r1Ni4E), *NBC News*, May 19, 2020, <https://nbcnews.to/3r1Ni4E>.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

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disseminate documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://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](mailto: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](mailto: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.

Sincerely,



Nikhel Sus  
Senior Counsel