



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

July 6, 2021

Office of the Governor
500 East Capitol Avenue
Pierre, SD 57501

Re: Public Records Request

Dear Public Records Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records pursuant to the South Dakota Public Records Act, S.D.C.L. Chapter § 1-27.

Specifically, CREW requests all records from May 1, 2021 to the date this request is processed relating to the deployment of the South Dakota National Guard to the southern U.S. border, as announced by Governor Kristi Noem on June 29, 2021 (the “Deployment”),¹ including without limitation the following records:

1. All records relating to the “private donation” to support the Deployment provided by Willis and Reba Johnson’s Foundation and billionaire Willis Johnson, including records sufficient to show the total amount of the donation.
2. All communications sent to or by Willis Johnson or any representative of his foundation.
3. Records sufficient to show the total cost of the Deployment.
4. All records reflecting any complaint, inquiry, analysis, consideration, or determination by any state or federal entity regarding the propriety of using a private donation to fund the Deployment.
5. All records reflecting any complaint, inquiry, analysis, consideration, or determination by any state or federal entity regarding any legal restrictions applicable to the Deployment.
6. All records reflecting the parameters, duration, or conditions of the Deployment.

¹ See Press Release, [Governor Noem Deploys South Dakota National Guard to Texas for Border Security](https://news.sd.gov/newsitem.aspx?id=28226), *South Dakota State News*, June 29, 2021, <https://news.sd.gov/newsitem.aspx?id=28226>.

The above request excludes records consisting solely of news articles, press clippings, and other publicly-available material, so long as the records include no accompanying discussion by agency officials.

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, and anyone who was cc'ed or bcc'ed on any emails.

Fee Waiver Request

In accordance with S.D.C.L. § 1-27-36, CREW requests a waiver of fees associated with processing this request for records. Disclosure of the requested records is in the public interest because it will likely contribute to a better understanding of relevant government procedures by the general public in a significant way. Furthermore, the request is primarily and fundamentally for non-commercial purposes.

In a press release issued on June 29, 2021, Governor Kristi Noem announced that “up to fifty South Dakota National Guard troops are being deployed to Texas to help the secure the border between the United States and Mexico.”² The release added that the “deployment will be paid for by a private donation.”³ The donation was reportedly provided by Willis Johnson, a billionaire Republican donor.⁴ Noem’s “acceptance of the donation from Johnson, who doesn’t even live in Noem’s state but rather in Tennessee, has drawn intense scrutiny,” with experts saying “it sets a troubling precedent in which a wealthy patron is effectively commandeering U.S. military might to address private political motivations.”⁵ The requested records will shed light on this issue of substantial 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 any documents it acquires from this request to the public through its

² See Press Release, Governor Noem Deploys South Dakota National Guard to Texas for Border Security, *South Dakota State News*, June 29, 2021, <https://news.sd.gov/newsitem.aspx?id=28226>.

³ *Id.*

⁴ Brian Slodysko and Stephen Groves, GOP donor pays \$1M to deploy South Dakota national guard, *Associated Press*, June 30, 2021, <https://apnews.com/article/joe-biden-sd-state-wire-south-dakota-immigration-philanthropy-6962b757ef01dff90cfe7fbb445d56f5>

⁵ *Id.*

July 6, 2021

Page 3

website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

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 the documents it receives through public records requests on its website.

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 denied, 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, 1331 F St. NW, Suite 900, Washington, D.C. 20004.

Sincerely,



Nikhel Sus
Senior Counsel