



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

June 17, 2022

By Email: ICE-FOIA@dhs.gov

U.S. Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009

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 U.S. Department of Homeland Security (“DHS”) regulations.

Specifically, CREW requests the following:

1. Any contracts or other agreements from January 20, 2021 to the present between ICE Office of Acquisition Management (OAQ) and GEO Group.
2. Any contracts or other agreements from January 20, 2021 to the present between ICE Office of Acquisition Management (OAQ) and CoreCivic.
3. All communications from January 20, 2021 to the present pertaining to contracts for detention between ICE (OAQ), ICE (ERO), GEO Group and/or CoreCivic.
4. Any and all records and communications from January 20, 2021 to the present referring to or relating to President Biden’s Executive Order on eliminating the use of private detention facilities.¹ This request covers any and all records or internal and external communications, including but not limited to interagency communications, and communications with the White House and other government agencies, from January 20, 2021 to the present sent or received by or copying, Acting Director of the U.S.

1

<https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/executive-order-reforming-our-incarceration-system-to-eliminate-the-use-of-privately-operated-criminal-detention-facilities/>.

Immigration and Customs Enforcement, Tae D. Johnson, U.S. Attorney General Merrick Garland, Director of the U.S. Department of Justice's Executive Office for Immigration Review, David L. Neal, Director of the Federal Bureau of Prisons, Michael Carvajal, and Acting Director of the U.S. Department of Justice's National Institute of Corrections, Shaina Vanek.

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 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).

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 agency 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 DHS 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).

On January 26th, 2021, President Joe Biden issued an Executive Order that was intended to eliminate the nationwide utilization of private detention facilities.² However, in the year since the Order was signed, “a multibillion-dollar private prison company,” GEO Group, “has found an ‘opportunity’ for new business in detaining and tracking immigrants because of the immigration

² Char Adams, *Biden's order terminates federal private prison contracts. Here's what that means.*, (Jan. 27, 2021), available at <https://www.nbcnews.com/news/nbcblk/biden-s-order-terminates-federal-private-prison-contracts-here-s-n1255776>.

court backlog that has only been made worse by the covid-19 pandemic....”³ More specifically, the company “detailed in a previously confidential document that ‘Border Inflow’ creates an ‘opportunity for GEO’ to increase its federal business — with a particular focus on its ‘electronic monitoring business’ — in the wake of the executive order, which has already cost the company contracts worth roughly \$125 million.”⁴ Moreover, “the order had significant limits, and companies,” such as GEO Group and CoreCivic, “have used those limits and found workarounds — with some success — to stay in business with the [Federal Government].”⁵ As GEO Group itself stated, for example, it “plans to use those workarounds, immigration detention contracts and increased reliance on its electronic monitoring business (known as BI Incorporated) to maintain its federal business interests despite Biden’s order.”⁶

As a result of the foregoing, “the private prison industry is still big business.”⁷ And “[a]s of Sept. 30, 2021, ... GEO Group owns, leases or manages more than 100 properties worldwide, representing roughly 86,000 beds.”⁸ Additionally, “[i]ts revenue from the prior 12 months was roughly \$2.3 billion[,]” and “despite the challenges brought on by the COVID-19 pandemic, the Company has shown strong performance, with FY’21 financials expected to be significantly better than what was communicated in Q4’20.”⁹ At this time, it is unclear what steps the Biden Administration have, are, or will be taking to remediate the abuse that private prison companies, such as GEO Group, have made against the Executive Order’s “significant limits,” and whether it plans to investigate the continued use of private detention facilities that were intended to be eliminated by said Order.¹⁰

The requested records are likely to contribute to public understanding of the details of the continuation of operating private detention facilities, including the cost of operating these facilities, profits from their operation, and the points of contact between the White House, the Department of Justice, ICE, and the companies that run these facilities, such as GEO Group. The public has a great interest in ensuring that the private sector abides by the lawful authority of the President of the United States and fulfills his will to the best of its ability.

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,

³ Chris Geidner, *A year after Biden’s executive order on private prisons, business is still booming*, (Jan. 26, 2022), available at <https://www.grid.news/story/politics/2022/01/26/a-year-after-bidens-executive-order-on-private-prisons-business-is-still-booming/>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

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 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 blog posts 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 under the FOIA 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 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 either the email listed above or Lauren White, Citizens for Responsibility and Ethics in Washington, 1331 F Street, N.W., Suite 900 Washington, D.C. 20004. Thank you for your assistance in this matter.

Sincerely,

Lauren White
Deputy Press Secretary