



September 9, 2020

Sent via email: OMBFOIA@omb.eop.gov

Dionne Hardy
725 17th Street NW, Suite 9204
Washington, DC 20503

Re: Freedom of Information Act Request

Dear Dionne Hardy:

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 Office of Management and Budget (“OMB”) regulations at 5 C.F.R. part 2604.

First, CREW requests records sufficient to identify the OMB official who failed to file a termination financial disclosure report as indicated in OMB’s 2019 agency ethics program questionnaire.¹

Second, CREW requests all communications related to the filer’s failure to file a termination report.

Third, CREW requests records related to any referral OMB made to the Department of Justice over the filer’s failure to file a termination report.

Please search for records created between January 1, 2018 through the date OMB conducts the search.

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. Please include any attachments or other enclosures included in email communications.

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-

¹ Office of Gov’t Ethics, Office of Management and Budget 2019 Agency Ethics Program Questionnaire, available at <https://bit.ly/3ifmryc> (Part 8, Question 34).

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).

The failure of a non-career appointee at OMB to file a termination report is unacceptable and raises questions about the circumstances under which they left the government. According to OMB's 2019 agency ethics program questionnaire, one non-career SES appointee never filed a termination financial disclosure report despite multiple attempts to contact them.² The public has no information beyond OMB's questionnaire to hold the filer accountable for their failure to file a termination report. Given the significant media attention related to Omarosa Manigault Newman's failure to file a termination report, the requested records are of significant interest to the public.³ In addition, the records will show what actions, if any, OMB took to bring the filer into compliance or otherwise hold them accountable for their failure to comply with the Ethics in Government Act.

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.

² Office of Gov't Ethics, Office of Management and Budget 2019 Agency Ethics Program Questionnaire, *available at* <https://bit.ly/3ifmryc> ("One departed employee failed to file termination report despite multiple attempts to contact).

³ Matt Zapotosky, *Justice Department files complaint alleging Omarosa Manigault Newman failed to file financial disclosure report*, *Washington Post*, June 25, 2019, *available at* <https://wapo.st/2ZnNz6B>; Veronica Stracqualursi, *Omarosa Manigault Newman files motion to dismiss lawsuit over financial disclosure report*, *CNN*, Sept. 12, 2019, *available at* <https://cnn.it/3bGKKIY>; Colin Kalmbacher, *Omarosa Manigault Newman Loses a Round Against DOJ Over Civil Lawsuit*, *Law & Crime*, May 21, 2020, *available at* <https://bit.ly/3hdz3o4>.

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 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 mlerner@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 mlerner@citizensforethics.org. If OMB 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 cursive script, appearing to read 'ML', is positioned above the typed name.

Meredith Lerner
Research Associate