

August 7, 2025

Federal Election Commission
Attn: FOIA Requester Service Center
1050 First Street, NE
Washington, DC 20463

Re: Expedited Freedom of Information Act Request

Dear FOIA Officers:

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 Federal Election Commission (“FEC”) regulations.

Specifically, CREW requests the following records from February 27, 2020, to the date this request is processed:

- 1) Any and all records that mention, reference, or relate to CREW’s July 26, 2024 letter to Commissioner James E. Trainor III¹ requesting his recusal from FEC’s consideration of America First Legal’s June 11, 2024 complaint seeking enforcement action against Manhattan District Attorney Alvin Bragg and the Biden for President campaign (“Complaint”).²
- 2) Any and all records that mention, reference, or relate to Commissioner Trainor’s eligibility to consider or participate in the FEC’s handling of the Complaint, including whether he should recuse himself.
- 3) Any and all communications between Commissioner Trainor and FEC or external agency ethics officials regarding recusals.
- 4) Any and all records that mention, reference or relate to communications between Commissioner Trainor and FEC or external agency ethics officials regarding recusals, including the agreements discussed in the Commissioner’s March 10, 2020 confirmation hearing³.

¹ Letter from Citizens for Responsibility and Ethics in Washington to James E. Trainor III, Commissioner, Federal Election Commission (July 26, 2024), <https://www.citizensforethics.org/wp-content/uploads/2024/07/Commissioner-Trainor-Recusal-Letter.pdf>.

² Considered by the FEC as Matter Under Review 8274 (“MUR 8274”).

³ See Nomination Hearing of James Edwin Trainor III for Commissioner of the Federal Election Commission, Senate Committee on Rules and Administration, 116th Cong. 9 (2020) (“I have entered into an agreement with regard to recusals at the Commission and I intend to follow the same recusal regime that every other Commissioner has followed when matters regarding President Trump come up. I will approach the ethics officials at the agency and have that discussion with them to see when it is appropriate to recuse and when not.”).

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.

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 rights under FOIA. Accordingly, because litigation is reasonably foreseeable, the agency should institute an agency wide preservation hold on all documents potentially responsive to this request.

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 *id.* § 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).

As discussed in the request for expedited processing below, the requested information is of urgent and critical public interest. The requested records are likely to contribute to a greater public understanding of the FEC, the process commissioners undertake when considering recusal, and the FEC's adherence to its ethical obligations in MUR 8274 specifically. All Federal employees are under a legal obligation to "act impartially and not give preferential treatment to any private organization or individual." 5 C.F.R. § 2635.101(b)(8). The public has a right to know whether FEC commissioners consider apparent bias that prevents them from acting impartially as grounds for recusal and to what extent the interests of then-candidate Trump influenced the FEC's decision making.

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 news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives hundreds 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. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website. Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Expedited Processing Request

CREW requests expedited processing of this request pursuant to 5 U.S.C. § 552 and 11 C.F.R. § 4.7. CREW is entitled to expedited processing because there is a "compelling need" for this information as CREW "is primarily engaged in disseminating information" and there is "urgency to inform the public concerning actual or alleged Federal Government activity." 5 U.S.C. § 552(6)(E)(v)(II); *see* 11 C.F.R. § 4.7(g)(1)(ii).

CREW is "primarily engaged in disseminating information" to the public. This "standard requires that information dissemination be the main [and not merely an incidental] activity of the requestor," but "publishing information need not be [the organization's] sole occupation." *Protect Democracy Project, Inc. v. U.S. Dep't of Def.*, 263 F. Supp. 3d 293, 298 (D.D.C. 2017) (quotation marks omitted). CREW routinely disseminates information obtained through FOIA to the public in several ways. For example, CREW's website receives hundreds 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. These reports frequently rely on government records obtained through FOIA. CREW also posts the documents it obtains through FOIA on its website. CREW is a credible requestor and disseminator of information often relied on by major media outlets.⁴

⁴ *See, e.g.,* *Citizens for Responsibility and Ethics in Washington*, N.Y. Times, <https://www.nytimes.com/topic/citizens-for-responsibility-and-ethics-in-washington> (last visited Nov. 20, 2024) (list of New York Times articles referencing CREW spanning over a decade); Ed Pilkington and Dharna Noor, *Top US ethics watchdog investigating Trump over dinner with oil bosses*, The Guardian (May 15, 2024), <https://www.theguardian.com/us-news/article/2024/may/15/ethics-watchdog-investigating-trump-big-oil/> (referring to CREW as "Top US ethics watchdog").

Moreover, the facts demonstrate that there is an “urgency to inform” the public of the government activity about which this request seeks records because (1) the request concerns a matter of current exigency to the American public; (2) the consequences of delaying a response would compromise a significant recognized interest; and (3) the request concerns federal government activity. *Al-Fayed v. C.I.A.*, 254 F.3d 300, 310 (D.C. Cir. 2001).

First, the requested records concern a matter of current exigency to the American public insofar as they are the subject of a currently unfolding story about government action: the influence of Commissioner Trainor’s widely perceived bias in favor of President Trump on the actions and activities of the FEC. That bias has been a source of major public concern as far back as his Commissioner Trainor’s initial nomination as an FEC Commissioner in 2017.⁵ The pressing need for Commissioner Trainor to comply with his legal obligations and recuse himself from matters concerning President Trump’s campaign was the subject of intense public discussion and media coverage during his confirmation hearing.⁶

Public concern over Commissioner Trainor’s apparent bias in favor of President Trump has continued throughout his time in office.⁷ In 2021, for instance, he was listed as a member of the “Trump Elections Team” in an advertisement for a Republican Party event,⁸ causing the FEC Office of the Inspector General to formally investigate Commissioner Trainor for this incident.⁹ In short, Commissioner Trainor’s apparent bias in favor of President Trump is the subject of national concern, media coverage, and controversy, and

⁵ See, e.g., Matea Gold, *Trump Nominates Conservative Texas Lawyer to Federal Election Commission*, Washington Post (Sept. 13, 2017), <https://www.washingtonpost.com/news/post-politics/wp/2017/09/13/trump-nominates-conservative-texas-lawyer-to-federal-election-commission/>; Sue Sturgis, *Meet Trump’s Controversial Federal Election Commission Pick*, Truthout (Sept. 21, 2017), <https://truthout.org/articles/meet-trump-s-controversial-federal-election-commission-pick/>; Kate Ackley, *FEC Pick Sparks Backlash From Democrats*, Roll Call (Mar. 4, 2020), <https://rollcall.com/2020/03/04/fec-pick-sparks-backlash-from-democrats/>.

⁶ See, e.g., Kate Ackley, *Democratic Senators Grill FEC Nominee, who Represented Trump Campaign*, Roll Call (Mar. 10, 2020), <https://rollcall.com/2020/03/10/democratic-senators-grill-fec-nominee-who-represented-trump-campaign/>; Alex Gangitano, *Democrats Press FEC Pick to Recuse Himself From Trump Matters*, The Hill (Mar. 10, 2020), <https://thehill.com/homenews/campaign/486830-democrats-press-trump-fec-pick-to-recuse/>; Kenneth P. Doyle, *Trump’s FEC Pick Rejects ‘Blanket’ Recusal on President’s Issues*, Bloomberg Government (Mar. 10, 2020), <https://about.bgov.com/insights/news/trumps-fec-pick-rejects-blanket-recusal-on-presidents-issues/>.

⁷ See Letter from Citizens for Responsibility and Ethics in Washington to James E. Trainor III, Commissioner, Federal Election Commission, *supra* note 1, at 2-3 (listing numerous examples of Commissioner Trainor’s use of social media to show support for Donald Trump).

⁸ See Madison Hall, *A Trump-appointed Official who gets an Important Vote on Whether Trump Broke Election Laws Spoke at a Texas GOP Event Where he was Billed as a Part of the ‘Trump Elections Team’*, Business Insider (June 30, 2022), <https://www.businessinsider.com/trump-election-integrity-trey-trainor-federal-election-commission-fec-2022-6>.

⁹ Investigative Summary I22INV00033, FEC Off. of the Inspector Gen. (Aug. 7, 2023), <https://www.fec.gov/resources/cms-content/documents/Investigative-Summary-I22INV00033.pdf>.

rightly so—the public needs information on whether government officials charged with regulating the democratic process are biased in favor of particular candidates and elected officials.

Second, the American people urgently need information about Commissioner Trainor's decision not to recuse from consideration of the Complaint to understand whether he, in his position of public trust to ensure the fairness of federal elections, is complying with federal law requiring impartiality in the execution of his duties. Although public reporting had indicated that Commissioner Trainor was considering resigning from the FEC, thereby alleviating some of the urgency for public disclosure of these records,¹⁰ his recent announcement that he will remain an FEC commissioner indefinitely makes the public's need to understand the risks associated with his apparent bias are stronger than ever.¹¹ While the FEC currently lacks a quorum, it still wields substantial powers, the exercise of which Commissioner Trainor will play a central role in overseeing.¹² The legitimate and widespread concern over Commission Trainor's apparent bias as he influences the work of the Commission is even more pronounced as the Trump Administration openly attempts to end the FEC's independence and politicize election administration.¹³ Accordingly, CREW's FOIA request seeks records that will inform the public on how the bias of one of the FEC's commissioners will affect the agency's response to these unprecedented attacks. The consequences of delaying a response to CREW's request are serious.

Third, and finally, federal agencies' consideration of complaints alleging violations of federal law is quintessential federal government activity.

The undersigned certifies that the representations in the foregoing Request for

¹⁰ See Paul Bedard, *Pro-Trump FEC Chairman Eyes Bid for Texas Attorney General*, Washington Examiner (June 9, 2025), <https://www.washingtonexaminer.com/news/washington-secrets/3435211/trump-allies-gop-texas-attorney-general-race-ken-paxton/>.

¹¹ See Paul Bedard, *Lone FEC Republican to Stay and Block Weaponization by Democrats*, Washington Examiner (July 7, 2025), <https://www.washingtonexaminer.com/news/washington-secrets/3464540/fec-republican-trey-trainor-to-stay-block-democrats-weaponization/>.

¹² See Statement of Commissioner Shana M. Broussard Upon Becoming Chair of the Federal Election Commission, Federal Elections Commission (July 1, 2025), https://www.fec.gov/resources/cms-content/documents/2025.07.01_SMB_Chair_Statement.pdf (“[W]e continue to collect and post millions of pages of disclosure information and hundreds of millions of transactions on our website, provide substantive compliance trainings from our Information Division, process and analyze new enforcement complaints in the Office of General Counsel, and respond directly to questions to our Compliance Division about reporting obligations from candidates and committees.”).

¹³ See, e.g., Ashley Lopez, *Federal Election Commissioner Says Trump is Trying to Improperly Remove Her*, NPR (Feb. 7, 2025), <https://www.npr.org/2025/02/07/nx-s1-5290112/trump-federal-election-commissioner-weintraub> (discussing President Trump's firing of FEC Commissioner Ellen Weintraub without cause); Exec. Order No. 14215, 90 Fed. Reg. 10447 (Feb. 24, 2025) (President Trump's attempt to eliminate the protections afforded to independent agencies including the FEC); Executive Order 14248, 90 Fed. Reg. 14005 (Mar. 28, 2025) (President Trump's attempt to subvert local election administration).

Expedited Processing are true and correct to the best of their knowledge and belief.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please email me at smcphail@citizensforethics.org and foia@citizensforethics.org or call (202) 408-5565. 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 foia@citizensforethics.org. Thank you for your assistance in the matter.

Sincerely,

Stuart McPhail
Director of Campaign Finance Litigation