CREW

CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

February 11, 2022

John Simms
National Archives and Records Administration
Office of Inspector General
8601 Adelphi Road, Room 1300
College Park, MD 20740-6001
john.simms@nara.gov

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 National Archives and Records Administration ("NARA") regulations.

Specifically, CREW requests all records from January 20, 2021 to the date this request is processed reflecting any communications between NARA's Office of Inspector General and NARA, the Department of Justice, former President Donald J. Trump or his staff, or any external entity regarding Trump White House Presidential records.

This request excludes agency 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.

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 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).

On February 9, 2022, the *New York Times* reported that NARA "discovered what it believed was classified information in documents Donald J. Trump had taken with him from the White House as he left office."[1] The discovery reportedly "prompted the National Archives to reach out to the Justice Department for guidance," and the "department told the National Archives to have its inspector general examine the matter."[2] It is unclear, however, "what the inspector general has done since then, in particular, whether the inspector general has referred the matter to the Justice Department."[3] The requested records will shed light on what actions, if any, NRA's OIG has taken with respect to the potential mishandling or improper removal of Trump White House Presidential records—an 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 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)

---

[1] Reid J. Epstein and Michael S. Schmidt, Archives Found Possible Classified Material in Boxes Returned by Trump, *New York Times*, Feb. 9, 2022, https://www.nytimes.com/2022/02/09/us/politics/national-archives-trump-classified-material.html.
[2] *Id.*
[3] *Id.*

(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 the documents it receives under the FOIA on its website.

Under these circumstances, CREW fully satisfies 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 [redacted]. 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 [redacted] or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, [redacted]

Sincerely,

Nikhel Sus
Senior Counsel