

December 22, 2016

**BY EMAIL: [usdoj-officeoflegalcounsel@usdoj.gov](mailto:usdoj-officeoflegalcounsel@usdoj.gov)**

Melissa Golden  
Lead Paralegal and FOIA Specialist  
Office of Legal Counsel  
Department of Justice  
950 Pennsylvania Avenue, N.W., Room 5511  
Washington, DC 20530-0001

**Re: Freedom of Information Act Request**

Dear Ms. Golden:

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 Department of Justice (“DOJ”) regulations.

CREW seeks copies of all opinions prepared by the Office of Legal Counsel (“OLC”) between November 8, 2016 and the present for the Office of Government Ethics (“OGE”) or the General Services Administration (“GSA”). CREW seeks all guidance prepared by OLC and provided to OGE and GSA, including formal OLC opinions and informal advice.

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). In the event 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).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and DOJ 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 will likely 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 requested records are likely to contribute to the public's understanding of conflict-of-interest and ethical issues involving President-elect Donald J. Trump and likely members of his incoming administration. Since President-elect Trump's election, numerous legal questions related to the applicability of ethics laws and rules, such as the Constitution's Foreign Emoluments Clause and conflict-of-interest laws, to President-elect Trump and likely members of his incoming administration. OGE is responsible for addressing many of these issues. Questions also have been raised about the applicability of 5 U.S.C. § 3110, the anti-nepotism statute, to President-elect Trump's family members, and about a provision in a GSA lease with a company owned by President-elect Trump to operate a hotel in Washington, D.C. in the Old Post Office building that appears to prohibit any elected official of the United States government from benefitting from the lease. The requested records are likely to shed light on these significant legal and ethical issues.

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](http://www.citizensforethics.org), and through [www.scribd.com](http://www.scribd.com). 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 a blog that reports on and analyzes 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 all of the documents it receives under the FOIA at [www.scribd.com](http://www.scribd.com), and those documents have 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) 408-5565 or [arappaport@citizensforethics.org](mailto:arappaport@citizensforethics.org). CREW also welcomes the opportunity to discuss with you whether and to what extent this request can be narrowed or modified to better enable the FBI to process it within the FOIA's deadlines. In addition, 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 either at [arappaport@citizensforethics.org](mailto:arappaport@citizensforethics.org) or at Adam J. Rappaport, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., 6th Floor, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Adam J. Rappaport  
Chief Counsel