

CREW

**citizens for responsibility
and ethics in washington**

June 23, 2017

BY EMAIL: usoge@oge.gov

OGE FOIA Officer
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, D.C. 20005-3917

Re: Expedited Freedom of Information Act Request

Dear Freedom of Information Officer,

Citizens for Responsibility and Ethics in Washington ("CREW") makes this expedited request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and Office of Government Ethics ("OGE") regulations.

Specifically, CREW requests copies of the applications for Certificates of Divestiture submitted by the White House to OGE on behalf of Jared Kushner, Ivanka Trump, and their children. In response to those requests, OGE issued the following Certificates of Divestiture: OGE-2017-002; OGE-2017-003; OGE-2017-004; OGE-2017-005; OGE-2017-006; and OGE-2017-007. OGE issued the certificates numbered 002 through 006 on January 26, 2017, and the certificate number 007 on February 1, 2017. CREW also requests a copy of Mr. Kushner's public financial disclosure report (OGE 278e) that was submitted in support of his applications for Certificates of Divestiture.

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 cc'ed and bcc'ed copies sent or received.

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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and OGE 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 whether conflicts-of-interests or the appearance of such conflicts-of-interests are being appropriately mitigated in the White House by CREW and the 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).

OGE issued Certificates of Divestiture to Mr. Kushner earlier this year based on its understanding that Mr. Kushner would completely divest of all financial interests in BFPS Ventures LLC (“BFPS”), as well as other technology assets. A statement by Mr. Kushner’s lawyer last month raises a question regarding whether he has fully divested of interests necessary for compliance with 18 U.S.C. § 208, including his interests in technology company Cadre, which we have learned from recent news reports is held by BFPS.¹ Given Mr. Kushner’s continued involvement in shaping technology policy for the administration in his role as White House advisor, the public has an interest in knowing whether Mr. Kushner has divested all of his conflicting financial interests in his technology holdings.² The requested records will shed light on this issue.

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 activity of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money in 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”).

¹ Jean Eaglesham, Juliet Chung and Lisa Schwartz, Trump Adviser Kushner’s Undisclosed Partners Include Goldman and Soros: Investments Show Ties to Major Finance and Technology Names, *Wall Street Journal*, May 3, 2017, available at <https://www.wsj.com/articles/trump-adviser-jared-kushner-didnt-disclose-startup-stake-1493717405>.

² Alana Abramson, Jared Kushner Was Tasked With Reforming Government Technology. Silicon Valley Is Coming to Help, *Fortune*, Jun. 19, 2017, available at <http://fortune.com/2017/06/18/jared-kushner-technology-summit-white-house/>.

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 documents it receives under the FOIA at www.scribd.com, and those documents has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Request for Expedition

Pursuant to the FOIA and OGE regulations, 5 C.F.R. § 2604.301, CREW seeks expedition of this request because the subject matter is of widespread and exceptional media interest, and the requested information involves possible questions about the integrity of a key White House advisor. Those questions clearly affect public confidence, as evidenced by the intense public interest in the multiple conflicts-of-interest issues surrounding top White House and administration officials. There is a critical need to restore public confidence in those advising the President and shaping laws and policy. Mr. Kushner's widely reported participation in technology policy-related matters for the White House, and his apparent failure to divest all of his technology assets in BFPS, including Cadre,³ give rise to an acute need to more fully understand, and inform the public about, the circumstances surrounding the OGE's actions.

CREW's primary purpose is to inform the public about the activities of government officials and those who influence public officials. Toward that end, CREW uses statutes like the FOIA to gather information the public needs to hold public officials accountable. The request for which CREW seeks expedition will further those goals.

I declare that the foregoing is true and correct to the best of my knowledge and belief.

Conclusion

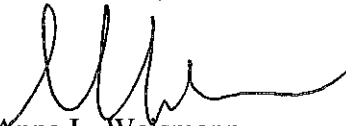
If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or aweismann@citizensforethics.org. CREW also welcomes the opportunity to discuss with you whether and to what extent this request can be narrowed or modified to better enable the OGE to process it expeditiously. 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 aweismann@citizensforethics.org or Anne Weismann, Citizens for

³ See Eaglesham et. al., *Wall Street Journal*, May 3, 2017.

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,



Anne L. Weismann
Chief FOIA Counsel