

September 20, 2017

BY EMAIL: FOIARequest@hhs.gov

Freedom of Information Officer
U.S. Department of Health and Human Services
Hubert H. Humphrey Building
Room 729H
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Expedited Freedom of Information Act Request

Dear Freedom of Information Officer:

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 U.S. Department of Health and Human Services (“HHS”) regulations.

First, CREW requests copies of all records concerning authorization for and the costs of Health and Human Services Secretary Tom Price’s use of non-commercial aircraft for any official travel since his confirmation on February 10, 2017. This includes all such authorizations Secretary Price or anyone acting on behalf of Secretary Price sought, whether or not such authorization was granted.

Second, CREW seek records sufficient to show the amount of money budgeted for Secretary Price’s travel, whether on a yearly or fiscal year basis, for 2017 and 2018, and the amount budgeted for the Secretary’s travel for 2016.

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, as well as emails to which the subjects of this request were cc’ed or bcc’ed.

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 HHS 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).

Reportedly in a one-week period alone, Secretary Price travelled by private jet for official business. Dan Diamond and Rachana Pradhan, [Price's Private-Jet Travel Breaks Precedent](http://www.politico.com/story/2017/09/19/tom-price-chartered-planes-flights-242908), *Politico*, Sept. 19, 2017, available at <http://www.politico.com/story/2017/09/19/tom-price-chartered-planes-flights-242908>. The costs of this travel far exceeded the costs of commercial flights by thousands of dollars, and broke with the practices of Secretary Price's predecessors. *Id.*

The requested records would shed light on the justifications for Secretary Price's use of non-commercial aircraft and the extent to which that use complies with governing standards and regulations. At a time of deep budget cuts government-wide, and when Secretary Price himself has "back[ed] major spending reductions to agencies he oversees and legislation that would cull hundreds of billions of dollars from federal entitlement programs," *id.*, taxpayers have a particularly acute interest in learning the details of Secretary Price's use and potential abuse of expensive, non-commercial aircraft. The thousands, if not tens of thousands of dollars Secretary Price has expended for this travel stands in stark contrast to the financial burden he and the administration seek to impose on the public through drastic cuts in health care funding and coverage.

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 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 have 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 HHS regulations, 45 C.F.R. § 5.27, CREW also requests expedited processing of this request given the urgent need to inform the public about Secretary Price's apparently frequent use of non-commercial aircraft, a radical departure from past practice. As demonstrated above, CREW is primarily engaged in disseminating information to the public within the meaning of the FOIA. This matter has garnered intense public interest and with this request CREW seeks to inform the public about the frequency of Secretary Price's use of non-commercial aircraft for official travel and whether that use complies with all legal requirements.

I certify the foregoing is true and correct.

Conclusion

If you have any questions about this expedited request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or aweismann@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 either at aweismann@citizensforethics.org or at Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel