

September 20, 2017

BY FACSIMILE: 202-619-8365

U.S. Department of Housing and Urban Development
Freedom of information Act Office
451 7th Street, S.W., Room 10139
Washington, D.C. 20410-3000

Re: 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 Housing and Urban Development (“HUD”) regulations.

First, CREW requests copies of all records concerning authorization for and the costs of HUD Secretary Ben Carson’s use of non-commercial aircraft for any official travel since his confirmation on March 2, 2017. This includes all such authorizations Secretary Carson or anyone acting on behalf of Secretary Carson sought, whether or not such authorization was granted.

Second, CREW seek records sufficient to show the amount of money budgeted for Secretary Carson’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 HUD 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).

Recent news reports have focused on the use by agency heads of non-commercial aircraft for official government travel. For example, it was recently reported that HHS Secretary Tom Price travelled by private jet on five separate flights during a one-week period, all at a cost of thousands of dollars in excess of what commercial flights would have cost. Dan Diamond and Rachana Pradhan, Price's Private-Jet Travel Breaks Precedent, *Politico*, Sept. 19, 2017, available at <http://www.politico.com/story/2017/09/19/tom-price-chartered-planes-flights-242908>. Treasury Secretary Steven Mnuchin has been criticized for his use of a private plane to travel to Lexington, Kentucky, during which he took in the solar eclipse at Fort Knox with his wife, and his earlier request to travel by government plane for his honeymoon. See, e.g., Charles Ventura, Steven Mnuchin Requested an Air Force Jet for His European Honeymoon, Report Says, *USA Today*, Sept. 13, 2017, available at <https://www.usatoday.com/story/news/politics/onpolitics/2017/09/13/steven-mnuchin-military-jet-honeymoon/664335001/>. And Secretary Carson had a very visible role in introducing President Trump at a campaign rally in Phoenix, Arizona, raising questions about whether his trip was government-funded. See Philip Bump, Why Ben Carson's Appearance in Phoenix Was Likely a Violation of Federal Law, *Washington Post*, available at https://www.washingtonpost.com/news/politics/wp/2017/08/23/why-ben-carsons-appearance-in-phoenix-was-likely-a-violation-of-federal-law/?utm_term=.ef0c277c9aff. The requested records will shed light on whether and to what extent Secretary Carson also has broken with prior practice and used non-commercial aircraft for government travel.

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 on its website, 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 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