



# **EXHIBIT A**



was denied in language nearly identical to that HUD used in the FOIA requests at issue here.<sup>2</sup>

CREW has filed an administrative appeal, which is attached as Exhibit C.

As this most recent action by HUD demonstrates, plaintiffs' claims are far from moot; not only are HUD's challenged actions capable of repetition but they are in fact being repeated to plaintiffs' detriment.

### **CONCLUSION**

For the foregoing reasons and those set forth in Plaintiffs' Opposition to Defendants' Motion to Dismiss (Dkt. 15), plaintiffs respectfully request that Defendants' motion be denied.

Respectfully submitted,

/s/ Anne L. Weismann  
Anne L. Weismann  
(D.C. Bar No. 298190)  
Citizens for Responsibility and Ethics  
in Washington  
455 Massachusetts Ave., N.W.  
Washington, D.C. 20001  
Phone: (202) 408-5565  
Facsimile: (202) 588-5020

*Attorney for Citizens for Responsibility and Ethics  
in Washington*

Patrick C. Elliott  
Freedom From Religion Foundation, Inc.  
10 N. Henry St.  
Madison, WI 53703  
Phone: (608) 256-8900  
Facsimile: (608) 204-0422

Dated: October 12, 2018

*Attorney for Freedom From Religion Foundation*

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<sup>2</sup> HUD's response is attached as Exhibit B.



Exhibit A	CREW's FOIA Request of October 1, 2018
Exhibit B	HUD Administrative Response, October 2, 2018
Exhibit C	CREW Administrative Appeal

# **EXHIBIT A**

October 2, 2018

**BY FACSIMILE: (202) 619-8365**

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

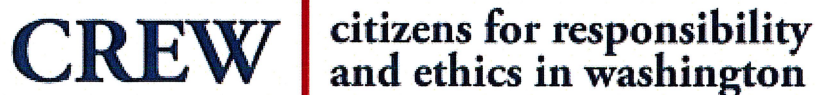
Dear FOIA Officer:

Please see the attached FOIA request for copies of records sufficient to show all of Secretary Carson's scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018. If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 897-1845 or [mlerner@citizensforethics.org](mailto:mlerner@citizensforethics.org).

Best,

A handwritten signature in cursive script that reads "Meredith Lerner".

Meredith Lerner  
Research Associate, Citizens for Responsibility and Ethics in Washington



October 2, 2018

**BY FACSIMILE: (202) 619-8365**

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

**Re: Freedom of Information Act Request**

Dear FOIA 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 regulations.

CREW requests copies of records sufficient to show all of Secretary Carson's scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018, including but not limited to Outlook calendar entries and daily briefing books for Secretary Carson on those dates.

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 those who were 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). 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 Housing and Urban Development 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

FOIA Officer  
October 1, 2018  
Page 2

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).

A recent and substantial decrease in the level of detail the Interior Department includes in Secretary Zinke's calendars raises concerns that other cabinet secretaries' calendars may be similarly lacking in information. A review of Secretary Zinke's calendars on the Interior Department's website reveals that the more recent entries contain far more general descriptions such as "external meeting" in lieu of identifying with whom the Secretary met. This lack of detail raises the concern that the Interior Department has altered its process for populating Secretary Zinke's calendars to avoid the full transparency that disclosure under the FOIA brings. The requested records would shed light on whether that or a similar practice extends to the Department of Housing and Urban Development and whether the Department is complying fully with the letter and spirit of the FOIA, which is one of the most effective tools Congress provided to make our government more accountable through increased transparency.

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). 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 the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

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



FOIA Officer  
October 1, 2018  
Page 3

**Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 897-1845 or [mlerner@citizensforethics.org](mailto:mlerner@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 [mlerner@citizensforethics.org](mailto:mlerner@citizensforethics.org) or Meredith Lerner, 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,

A handwritten signature in cursive script that reads "Meredith Lerner".

Meredith Lerner  
Research Associate

# **EXHIBIT B**



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

October 2, 2018

Ms. Meredith Lerner  
Citizens for Responsibility and  
Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

RE: Freedom of Information Act Request  
FOIA Control No.: 19-FI-HQ-00012

Dear Ms. Lerner:

This letter acknowledges the Department of Housing and Urban Development's receipt of your Freedom of Information Act (FOIA) request dated October 1, 2018. Your request was received on October 2, 2018, and you requested a fee waiver.

Pursuant to HUD regulations at 24 C.F.R. § 15.110(h), HUD may waive or reduce the fee if it determines that (1) disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) that you are not seeking the information for your own commercial interests. To satisfy the public interest requirement, four factors must be considered in sequence when determining whether the fee waiver request concerns documents that will contribute to the greater public understanding of government activities. See *D.C. Technical Assistance Organization, Inc., et al., v. HUD*, 85 F. Supp. 2d 46 (D.C. Cir. 2000). Those factors are as follows: (1) whether the subject matter of the requested documents specifically relates to "operations or activities of the government"; (2) whether the requested documents will be "likely to contribute" to an understanding of specific government activities or operations; (3) whether the disclosure will contribute to a greater understanding on the part of the public at large; and (4) whether disclosure of the requested documents will contribute "significantly" to the public's understanding of government activities or operations.

Your request fails to meet the criteria stated above. A requester seeking a fee waiver bears the initial burden of identifying the public interest to be served, and that public interest must be asserted with reasonable specificity. See *Physicians Committee for Reasonable Medicine v. HHS*, 480 F. Supp. 2d 119 (D.C. Cir. 2007) citing *National Treasury Employees Union v. Griffin*, 811 F.2d 644, 647 (D.C. Cir. 1987). The courts have held that "conclusory statements that the disclosure will serve the public interest are not sufficient" to meet the requester's burden of showing that the fee waiver requirements are met. See *id.* citing *Judicial Watch, Inc. v. DOJ*, 185 F. Supp. 2d 54, 60 (D.D.C. 2001).



While the Department seeks to waive fees where appropriate, HUD is also obligated to safeguard the public treasury by refusing to grant waivers except as provided by the FOIA. As the proper focus must be on the benefit to be derived by the general public, any personal benefit by the requester, or the requester's particular financial situation, are not factors entitling the requester to a fee waiver. Therefore, based on the foregoing, your request for a fee waiver is not in the "public interest" as required by statute and is therefore denied.

You may appeal this determination within 90 days from the date of this letter. If you decide to appeal, your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting the appeal. The envelope should be plainly marked to indicate that it contains a FOIA appeal and be addressed to:

U.S. Department of Housing and Urban Development  
Attention: FOIA Appeals  
Office of Ethics, Appeals and Personnel Law  
Ethics and Appeals Division  
451 Seventh Street, SW, Suite 2130  
Washington, DC 20410

Telephone: (202) 708-3815

You may submit your appeal online at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/foia/foiaappeals](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/foiaappeals).

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

Telephone: 202-741-5770; toll free at 1-877-684-6448

FAX: 202-741-5769

Email: [ogis@nara.gov](mailto:ogis@nara.gov)

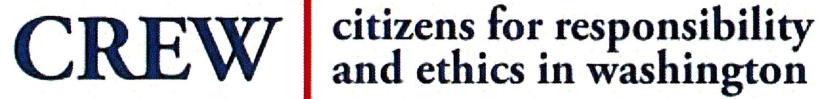
If you have any questions regarding your request, please contact me at (202) 402-4315. Thank you for your interest in the Department's programs and policies.

Sincerely,

*Eugene McGirt*

Eugene McGirt  
Government Information Specialist

# **EXHIBIT C**



October 2, 2018

U.S. Department of Housing and Urban Development  
Attn: FOIA Appeals  
Office of Ethics, Appeals and Personnel Law  
Ethics and Appeals Division  
451 7th Street, S.W., Suite 2130  
Washington, D.C. 20410

Re: Administrative Appeal in FOIA Control No. 19-FI-HQ-00012

Dear FOIA Appeals Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) hereby appeals the initial denial by the U.S. Department of Housing and Urban Development (“HUD”) of CREW’s request for a waiver of fees associated with processing the above-referenced Freedom of Information Act (“FOIA”) request. As set forth below, this initial denial contravenes both the law and the facts and appears to be yet another part of a pattern and practice by HUD to unlawfully deny CREW fee waivers under the FOIA.

On October 1, 2018, CREW submitted to the HUD Office of Inspector General FOIA email address a request for copies of records sufficient to show all of Secretary Carson’s scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018. Upon receipt of an email on October 2, 2018 from the Office of Legal Counsel to the Inspector General suggesting CREW submit the FOIA request to the Department, CREW submitted the request to HUD by facsimile. A copy of this request is enclosed as Exhibit A.

CREW also requested a waiver of fees associated with processing its request because the subject 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. *Id.* Specifically, as CREW’s request explains, the Interior Department has shifted its procedure for populating Secretary Ryan Zinke’s calendars to provide far less information and detail than in the past. For example, calendars from March 2018, available at [https://www.doi.gov/sites/doi.gov/files/uploads/march\\_2018\\_calendar\\_redacted.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/march_2018_calendar_redacted.pdf), contain considerable more descriptive detail than those posted for June 2018, available at [https://www.doi.gov/sites/doi.gov/files/uploads/zinke\\_june\\_2018\\_calendar\\_redacted.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/zinke_june_2018_calendar_redacted.pdf). The more recent entries contain far more general descriptions such as “external meeting” in lieu of identifying with whom the Secretary met. As CREW explained, the requested records will shed light on whether and to what extent this or a similar practice of obscuring information extends to HUD, a question that lies at the heart of the activities and operations of the government.

CREW also requested a fee waiver as a member of the news media, explaining how it regularly publishes and disseminates information to the public in a variety of ways, including through its website, reports, and blog posts.

FOIA Appeals Officer  
October 2, 2018  
Page 2

Less than 24 hours later, by letter dated October 2, 2018, Government Information Specialist Eugene McGirt on behalf of HUD advised CREW its request for a fee waiver was denied. According to Mr. McGirt, CREW's request "is not in the 'public interest.'" Mr. McGirt did not address CREW's request to be categorized as a member of the news media for fee purposes. For your convenience, a copy of his letter is enclosed as Exhibit B.

Under the FOIA, 5 U.S.C. § 552(e)(6), a requester should be granted a fee waiver "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Here, Mr. McGirt concluded initially, with virtually no analysis, that CREW's request is not in the public interest. Significantly, he failed to consider the clear and convincing explanation CREW proffered regarding the public's interest in the requested documents.

First, without question CREW's request concerns "operations or activities of the government," as it seeks documents that would shed light on the process by which Secretary Carson's calendar is populated. How the Secretary and HUD maintain the Secretary's calendar could not be more relevant to the "operations or activities of the government," particularly at a time when another agency has altered its procedures to effectively withhold information from the public.

Second, the requested disclosure is "likely to contribute" to either: (1) the public's understanding of Secretary Carson's activities during the requested period; or (2) the lengths to which HUD and Secretary Carson go to obscure his schedule from the public. Currently there is considerable interest in the activities of cabinet secretaries and what they are doing with their time in office. This is evident in reporting related to Transportation Secretary Elaine Chao, available at <https://www.politico.com/interactives/2018/where-is-elaine-chao/>, Commerce Secretary Wilbur Ross, available at <https://www.forbes.com/sites/forbesdigitalcovers/2018/07/12/wilbur-ross-calendar-reveals-dozens-of-meetings-with-companies-tied-to-his-personal-fortune/>, and Interior Secretary Ryan Zinke, available at <https://www.cnn.com/2018/07/19/politics/zinke-calendar-omissions/index.html>, among others. Without question, the requested records would "likely . . . contribute" to the public's understanding of where Secretary Carson falls in disclosing his day to day activities. Under these circumstances, to call the subject of CREW's request not in the public interest is nothing short of absurd.

Third, disclosure of the requested records will contribute "significantly" to public understanding of HUD activities and how the agency operates applying the objective standard for the value of the requested information that the FOIA requires.<sup>1</sup> Little currently is known

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<sup>1</sup> See DOJ FOIA Update, Vol. VIII, No. 1, at 8 (Jan. 1, 1987), available at <https://www.justice.gov/oip/blog/foia-update-new-fee-waiver-policy-guidance>.



FOIA Appeals Officer  
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about Secretary Carson's recent schedule and the extent to which he meets, if at all, with external stakeholders. The records CREW has requested will fill in this gap.

For all these reasons, HUD's initial fee waiver denial clearly was in error and must be reversed. I note further that this is not the first time that HUD has denied CREW's fee waiver request based on a similarly insubstantial conclusion. This and previous such requests all seek information that has the potential to place Secretary Carson in an embarrassing or damaging light, raising the possibility, if not likelihood, that the fee waiver requests were denied for an improper basis. This conduct by HUD suggests a pattern and practice that violates the terms of the FOIA.

Mr. McGirt further erred in failing to address CREW's request that it also be treated as a media requester. As the courts have recognized, a non-profit organization like CREW that "regularly publishes or disseminates information to the public" qualifies as a member of the news media.<sup>2</sup> CREW's request lays out the numerous ways in which it routinely and systematically disseminates information to the public. Mr. McGirt did not even address this showing, much less explain how it failed to meet the statutory criteria. Accordingly, his denial of a fee waiver is contrary to law and fact.

Finally, I note that CREW has been accorded near universal recognition that it qualifies for a fee waiver given the nature of its requests and what it does with this kind of information. The fee waiver for an analogous FOIA request related to Commerce Secretary Ross's scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018 was granted on October 2, 2018. HUD's initial determination not only departs from this history, but suggests that once again political influence may have been brought to bear on the agency's FOIA process.

For all these reasons, I respectfully request that you reverse Mr. McGirt's initial determination and grant CREW a fee waiver.

Sincerely,



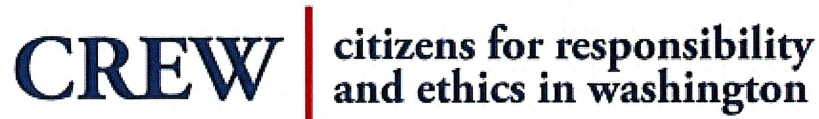
Anne L. Weismann  
Chief FOIA Counsel

encl.

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<sup>2</sup> *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989).

# **EXHIBIT A**



October 2, 2018

**BY FACSIMILE: (202) 619-8365**

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

**Re: Freedom of Information Act Request**

Dear FOIA Officer:

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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 Housing and Urban Development 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



FOIA Officer  
October 1, 2018  
Page 2

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A recent and substantial decrease in the level of detail the Interior Department includes in Secretary Zinke's calendars raises concerns that other cabinet secretaries' calendars may be similarly lacking in information. A review of Secretary Zinke's calendars on the Interior Department's website reveals that the more recent entries contain far more general descriptions such as "external meeting" in lieu of identifying with whom the Secretary met. This lack of detail raises the concern that the Interior Department has altered its process for populating Secretary Zinke's calendars to avoid the full transparency that disclosure under the FOIA brings. The requested records would shed light on whether that or a similar practice extends to the Department of Housing and Urban Development and whether the Department is complying fully with the letter and spirit of the FOIA, which is one of the most effective tools Congress provided to make our government more accountable through increased transparency.

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FOIA Officer  
October 1, 2018  
Page 3

**Conclusion**

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Sincerely,

A handwritten signature in blue ink that reads "Meredith Lerner". The signature is written in a cursive, flowing style.

Meredith Lerner  
Research Associate

# **EXHIBIT B**



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

October 2, 2018

Ms. Meredith Lerner  
Citizens for Responsibility and  
Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

RE: Freedom of Information Act Request  
FOIA Control No.: 19-FI-HQ-00012

Dear Ms. Lerner:

This letter acknowledges the Department of Housing and Urban Development's receipt of your Freedom of Information Act (FOIA) request dated October 1, 2018. Your request was received on October 2, 2018, and you requested a fee waiver.

Pursuant to HUD regulations at 24 C.F.R. § 15.110(h), HUD may waive or reduce the fee if it determines that (1) disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) that you are not seeking the information for your own commercial interests. To satisfy the public interest requirement, four factors must be considered in sequence when determining whether the fee waiver request concerns documents that will contribute to the greater public understanding of government activities. See *D.C. Technical Assistance Organization, Inc., et al., v. HUD*, 85 F. Supp. 2d 46 (D.C. Cir. 2000). Those factors are as follows: (1) whether the subject matter of the requested documents specifically relates to "operations or activities of the government"; (2) whether the requested documents will be "likely to contribute" to an understanding of specific government activities or operations; (3) whether the disclosure will contribute to a greater understanding on the part of the public at large; and (4) whether disclosure of the requested documents will contribute "significantly" to the public's understanding of government activities or operations.

Your request fails to meet the criteria stated above. A requester seeking a fee waiver bears the initial burden of identifying the public interest to be served, and that public interest must be asserted with reasonable specificity. See *Physicians Committee for Reasonable Medicine v. HHS*, 480 F. Supp. 2d 119 (D.C. Cir. 2007) citing *National Treasury Employees Union v. Griffin*, 811 F.2d 644, 647 (D.C. Cir. 1987). The courts have held that "conclusory statements that the disclosure will serve the public interest are not sufficient" to meet the requester's burden of showing that the fee waiver requirements are met. See *id.* citing *Judicial Watch, Inc. v. DOJ*, 185 F. Supp. 2d 54, 60 (D.D.C. 2001).

While the Department seeks to waive fees where appropriate, HUD is also obligated to safeguard the public treasury by refusing to grant waivers except as provided by the FOIA. As the proper focus must be on the benefit to be derived by the general public, any personal benefit by the requester, or the requester's particular financial situation, are not factors entitling the requester to a

fee waiver. Therefore, based on the foregoing, your request for a fee waiver is not in the “public interest” as required by statute and is therefore denied.

You may appeal this determination within 90 days from the date of this letter. If you decide to appeal, your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting the appeal. The envelope should be plainly marked to indicate that it contains a FOIA appeal and be addressed to:

U.S. Department of Housing and Urban Development  
Attention: FOIA Appeals  
Office of Ethics, Appeals and Personnel Law  
Ethics and Appeals Division  
451 Seventh Street, SW, Suite 2130  
Washington, DC 20410

Telephone: (202) 708-3815

You may submit your appeal online at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/foia/foiaappeals](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/foiaappeals).

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

Telephone: 202-741-5770; toll free at 1-877-684-6448

FAX: 202-741-5769

Email: [ogis@nara.gov](mailto:ogis@nara.gov)

If you have any questions regarding your request, please contact me at (202) 402-4315. Thank you for your interest in the Department’s programs and policies.

Sincerely,

**Eugene McGirt**

Eugene McGirt  
Government Information Specialist

# **EXHIBIT B**



October 2, 2018

**BY FACSIMILE: (202) 619-8365**

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

**Re: Freedom of Information Act Request**

Dear FOIA 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 regulations.

CREW requests copies of records sufficient to show all of Secretary Carson’s scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018, including but not limited to Outlook calendar entries and daily briefing books for Secretary Carson on those dates.

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 those who were 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). 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 Housing and Urban Development 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



FOIA Officer  
October 1, 2018  
Page 2

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).

A recent and substantial decrease in the level of detail the Interior Department includes in Secretary Zinke's calendars raises concerns that other cabinet secretaries' calendars may be similarly lacking in information. A review of Secretary Zinke's calendars on the Interior Department's website reveals that the more recent entries contain far more general descriptions such as "external meeting" in lieu of identifying with whom the Secretary met. This lack of detail raises the concern that the Interior Department has altered its process for populating Secretary Zinke's calendars to avoid the full transparency that disclosure under the FOIA brings. The requested records would shed light on whether that or a similar practice extends to the Department of Housing and Urban Development and whether the Department is complying fully with the letter and spirit of the FOIA, which is one of the most effective tools Congress provided to make our government more accountable through increased transparency.

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). 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 the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

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

FOIA Officer  
October 1, 2018  
Page 3

**Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 897-1845 or [mlerner@citizensforethics.org](mailto:mlerner@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 [mlerner@citizensforethics.org](mailto:mlerner@citizensforethics.org) or Meredith Lerner, 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,

A handwritten signature in cursive script that reads "Meredith Lerner".

Meredith Lerner  
Research Associate



# **EXHIBIT C**



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

October 2, 2018

Ms. Meredith Lerner  
Citizens for Responsibility and  
Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

RE: Freedom of Information Act Request  
FOIA Control No.: 19-FI-HQ-00012

Dear Ms. Lerner:

This letter acknowledges the Department of Housing and Urban Development's receipt of your Freedom of Information Act (FOIA) request dated October 1, 2018. Your request was received on October 2, 2018, and you requested a fee waiver.

Pursuant to HUD regulations at 24 C.F.R. § 15.110(h), HUD may waive or reduce the fee if it determines that (1) disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) that you are not seeking the information for your own commercial interests. To satisfy the public interest requirement, four factors must be considered in sequence when determining whether the fee waiver request concerns documents that will contribute to the greater public understanding of government activities. See *D.C. Technical Assistance Organization, Inc., et al., v. HUD*, 85 F. Supp. 2d 46 (D.C. Cir. 2000). Those factors are as follows: (1) whether the subject matter of the requested documents specifically relates to "operations or activities of the government"; (2) whether the requested documents will be "likely to contribute" to an understanding of specific government activities or operations; (3) whether the disclosure will contribute to a greater understanding on the part of the public at large; and (4) whether disclosure of the requested documents will contribute "significantly" to the public's understanding of government activities or operations.

Your request fails to meet the criteria stated above. A requester seeking a fee waiver bears the initial burden of identifying the public interest to be served, and that public interest must be asserted with reasonable specificity. See *Physicians Committee for Reasonable Medicine v. HHS*, 480 F. Supp. 2d 119 (D.C. Cir. 2007) citing *National Treasury Employees Union v. Griffin*, 811 F.2d 644, 647 (D.C. Cir. 1987). The courts have held that "conclusory statements that the disclosure will serve the public interest are not sufficient" to meet the requester's burden of showing that the fee waiver requirements are met. See *id.* citing *Judicial Watch, Inc. v. DOJ*, 185 F. Supp. 2d 54, 60 (D.D.C. 2001).

While the Department seeks to waive fees where appropriate, HUD is also obligated to safeguard the public treasury by refusing to grant waivers except as provided by the FOIA. As the proper focus must be on the benefit to be derived by the general public, any personal benefit by the requester, or the requester's particular financial situation, are not factors entitling the requester to a fee waiver. Therefore, based on the foregoing, your request for a fee waiver is not in the "public interest" as required by statute and is therefore denied.

You may appeal this determination within 90 days from the date of this letter. If you decide to appeal, your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting the appeal. The envelope should be plainly marked to indicate that it contains a FOIA appeal and be addressed to:

U.S. Department of Housing and Urban Development  
Attention: FOIA Appeals  
Office of Ethics, Appeals and Personnel Law  
Ethics and Appeals Division  
451 Seventh Street, SW, Suite 2130  
Washington, DC 20410

Telephone: (202) 708-3815

You may submit your appeal online at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/foia/foiaappeals](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/foiaappeals).

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

Telephone: 202-741-5770; toll free at 1-877-684-6448

FAX: 202-741-5769

Email: [ogis@nara.gov](mailto:ogis@nara.gov)

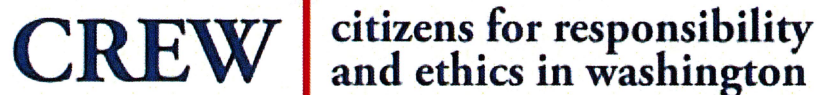
If you have any questions regarding your request, please contact me at (202) 402-4315. Thank you for your interest in the Department's programs and policies.

Sincerely,

*Eugene McGirt*

Eugene McGirt  
Government Information Specialist

# **EXHIBIT D**



October 2, 2018

U.S. Department of Housing and Urban Development  
Attn: FOIA Appeals  
Office of Ethics, Appeals and Personnel Law  
Ethics and Appeals Division  
451 7th Street, S.W., Suite 2130  
Washington, D.C. 20410

Re: Administrative Appeal in FOIA Control No. 19-FI-HQ-00012

Dear FOIA Appeals Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) hereby appeals the initial denial by the U.S. Department of Housing and Urban Development (“HUD”) of CREW’s request for a waiver of fees associated with processing the above-referenced Freedom of Information Act (“FOIA”) request. As set forth below, this initial denial contravenes both the law and the facts and appears to be yet another part of a pattern and practice by HUD to unlawfully deny CREW fee waivers under the FOIA.

On October 1, 2018, CREW submitted to the HUD Office of Inspector General FOIA email address a request for copies of records sufficient to show all of Secretary Carson’s scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018. Upon receipt of an email on October 2, 2018 from the Office of Legal Counsel to the Inspector General suggesting CREW submit the FOIA request to the Department, CREW submitted the request to HUD by facsimile. A copy of this request is enclosed as Exhibit A.

CREW also requested a waiver of fees associated with processing its request because the subject 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. *Id.* Specifically, as CREW’s request explains, the Interior Department has shifted its procedure for populating Secretary Ryan Zinke’s calendars to provide far less information and detail than in the past. For example, calendars from March 2018, available at [https://www.doi.gov/sites/doi.gov/files/uploads/march\\_2018\\_calendar\\_redacted.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/march_2018_calendar_redacted.pdf), contain considerable more descriptive detail than those posted for June 2018, available at [https://www.doi.gov/sites/doi.gov/files/uploads/zinke\\_june\\_2018\\_calendar\\_redacted.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/zinke_june_2018_calendar_redacted.pdf). The more recent entries contain far more general descriptions such as “external meeting” in lieu of identifying with whom the Secretary met. As CREW explained, the requested records will shed light on whether and to what extent this or a similar practice of obscuring information extends to HUD, a question that lies at the heart of the activities and operations of the government.

CREW also requested a fee waiver as a member of the news media, explaining how it regularly publishes and disseminates information to the public in a variety of ways, including through its website, reports, and blog posts.



FOIA Appeals Officer  
October 2, 2018  
Page 2

Less than 24 hours later, by letter dated October 2, 2018, Government Information Specialist Eugene McGirt on behalf of HUD advised CREW its request for a fee waiver was denied. According to Mr. McGirt, CREW's request "is not in the 'public interest.'" Mr. McGirt did not address CREW's request to be categorized as a member of the news media for fee purposes. For your convenience, a copy of his letter is enclosed as Exhibit B.

Under the FOIA, 5 U.S.C. § 552(e)(6), a requester should be granted a fee waiver "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." Here, Mr. McGirt concluded initially, with virtually no analysis, that CREW's request is not in the public interest. Significantly, he failed to consider the clear and convincing explanation CREW proffered regarding the public's interest in the requested documents.

First, without question CREW's request concerns "operations or activities of the government," as it seeks documents that would shed light on the process by which Secretary Carson's calendar is populated. How the Secretary and HUD maintain the Secretary's calendar could not be more relevant to the "operations or activities of the government," particularly at a time when another agency has altered its procedures to effectively withhold information from the public.

Second, the requested disclosure is "likely to contribute" to either: (1) the public's understanding of Secretary Carson's activities during the requested period; or (2) the lengths to which HUD and Secretary Carson go to obscure his schedule from the public. Currently there is considerable interest in the activities of cabinet secretaries and what they are doing with their time in office. This is evident in reporting related to Transportation Secretary Elaine Chao, available at <https://www.politico.com/interactives/2018/where-is-elaine-chao/>, Commerce Secretary Wilbur Ross, available at <https://www.forbes.com/sites/forbesdigitalcovers/2018/07/12/wilbur-ross-calendar-reveals-dozens-of-meetings-with-companies-tied-to-his-personal-fortune/>, and Interior Secretary Ryan Zinke, available at <https://www.cnn.com/2018/07/19/politics/zinke-calendar-omissions/index.html>, among others. Without question, the requested records would "likely . . . contribute" to the public's understanding of where Secretary Carson falls in disclosing his day to day activities. Under these circumstances, to call the subject of CREW's request not in the public interest is nothing short of absurd.

Third, disclosure of the requested records will contribute "significantly" to public understanding of HUD activities and how the agency operates applying the objective standard for the value of the requested information that the FOIA requires.<sup>1</sup> Little currently is known

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<sup>1</sup> See DOJ FOIA Update, Vol. VIII, No. 1, at 8 (Jan. 1, 1987), available at <https://www.justice.gov/oip/blog/foia-update-new-fee-waiver-policy-guidance>.

FOIA Appeals Officer  
October 2, 2018  
Page 3

about Secretary Carson's recent schedule and the extent to which he meets, if at all, with external stakeholders. The records CREW has requested will fill in this gap.

For all these reasons, HUD's initial fee waiver denial clearly was in error and must be reversed. I note further that this is not the first time that HUD has denied CREW's fee waiver request based on a similarly insubstantial conclusion. This and previous such requests all seek information that has the potential to place Secretary Carson in an embarrassing or damaging light, raising the possibility, if not likelihood, that the fee waiver requests were denied for an improper basis. This conduct by HUD suggests a pattern and practice that violates the terms of the FOIA.

Mr. McGirt further erred in failing to address CREW's request that it also be treated as a media requester. As the courts have recognized, a non-profit organization like CREW that "regularly publishes or disseminates information to the public" qualifies as a member of the news media.<sup>2</sup> CREW's request lays out the numerous ways in which it routinely and systematically disseminates information to the public. Mr. McGirt did not even address this showing, much less explain how it failed to meet the statutory criteria. Accordingly, his denial of a fee waiver is contrary to law and fact.

Finally, I note that CREW has been accorded near universal recognition that it qualifies for a fee waiver given the nature of its requests and what it does with this kind of information. The fee waiver for an analogous FOIA request related to Commerce Secretary Ross's scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018 was granted on October 2, 2018. HUD's initial determination not only departs from this history, but suggests that once again political influence may have been brought to bear on the agency's FOIA process.

For all these reasons, I respectfully request that you reverse Mr. McGirt's initial determination and grant CREW a fee waiver.

Sincerely,



Anne L. Weismann  
Chief FOIA Counsel

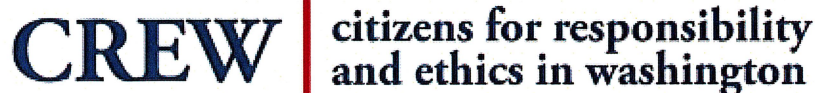
encl.

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<sup>2</sup> *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989).

# **EXHIBIT A**





October 2, 2018

**BY FACSIMILE: (202) 619-8365**

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

**Re: Freedom of Information Act Request**

Dear FOIA 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 regulations.

CREW requests copies of records sufficient to show all of Secretary Carson's scheduled meetings, appointments, and scheduled events for July 16 through 18, 2018, including but not limited to Outlook calendar entries and daily briefing books for Secretary Carson on those dates.

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 those who were 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). 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 Housing and Urban Development 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

FOIA Officer  
October 1, 2018  
Page 2

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).

A recent and substantial decrease in the level of detail the Interior Department includes in Secretary Zinke's calendars raises concerns that other cabinet secretaries' calendars may be similarly lacking in information. A review of Secretary Zinke's calendars on the Interior Department's website reveals that the more recent entries contain far more general descriptions such as "external meeting" in lieu of identifying with whom the Secretary met. This lack of detail raises the concern that the Interior Department has altered its process for populating Secretary Zinke's calendars to avoid the full transparency that disclosure under the FOIA brings. The requested records would shed light on whether that or a similar practice extends to the Department of Housing and Urban Development and whether the Department is complying fully with the letter and spirit of the FOIA, which is one of the most effective tools Congress provided to make our government more accountable through increased transparency.

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). 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 the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

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

FOIA Officer  
October 1, 2018  
Page 3

**Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 897-1845 or [mlerner@citizensforethics.org](mailto:mlerner@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 [mlerner@citizensforethics.org](mailto:mlerner@citizensforethics.org) or Meredith Lerner, 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,

A handwritten signature in cursive script that reads "Meredith Lerner".

Meredith Lerner  
Research Associate

# **EXHIBIT B**





**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
WASHINGTON, DC 20410-3000

OFFICE OF ADMINISTRATION

October 2, 2018

Ms. Meredith Lerner  
Citizens for Responsibility and  
Ethics in Washington  
455 Massachusetts Avenue, NW  
Washington, DC 20001

RE: Freedom of Information Act Request  
FOIA Control No.: 19-FI-HQ-00012

Dear Ms. Lerner:

This letter acknowledges the Department of Housing and Urban Development's receipt of your Freedom of Information Act (FOIA) request dated October 1, 2018. Your request was received on October 2, 2018, and you requested a fee waiver.

Pursuant to HUD regulations at 24 C.F.R. § 15.110(h), HUD may waive or reduce the fee if it determines that (1) disclosure of the information you seek is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) that you are not seeking the information for your own commercial interests. To satisfy the public interest requirement, four factors must be considered in sequence when determining whether the fee waiver request concerns documents that will contribute to the greater public understanding of government activities. See *D.C. Technical Assistance Organization, Inc., et al., v. HUD*, 85 F. Supp. 2d 46 (D.C. Cir. 2000). Those factors are as follows: (1) whether the subject matter of the requested documents specifically relates to "operations or activities of the government"; (2) whether the requested documents will be "likely to contribute" to an understanding of specific government activities or operations; (3) whether the disclosure will contribute to a greater understanding on the part of the public at large; and (4) whether disclosure of the requested documents will contribute "significantly" to the public's understanding of government activities or operations.

Your request fails to meet the criteria stated above. A requester seeking a fee waiver bears the initial burden of identifying the public interest to be served, and that public interest must be asserted with reasonable specificity. See *Physicians Committee for Reasonable Medicine v. HHS*, 480 F. Supp. 2d 119 (D.C. Cir. 2007) citing *National Treasury Employees Union v. Griffin*, 811 F.2d 644, 647 (D.C. Cir. 1987). The courts have held that "conclusory statements that the disclosure will serve the public interest are not sufficient" to meet the requester's burden of showing that the fee waiver requirements are met. See *id.* citing *Judicial Watch, Inc. v. DOJ*, 185 F. Supp. 2d 54, 60 (D.D.C. 2001).

While the Department seeks to waive fees where appropriate, HUD is also obligated to safeguard the public treasury by refusing to grant waivers except as provided by the FOIA. As the proper focus must be on the benefit to be derived by the general public, any personal benefit by the requester, or the requester's particular financial situation, are not factors entitling the requester to a

fee waiver. Therefore, based on the foregoing, your request for a fee waiver is not in the “public interest” as required by statute and is therefore denied.

You may appeal this determination within 90 days from the date of this letter. If you decide to appeal, your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting the appeal. The envelope should be plainly marked to indicate that it contains a FOIA appeal and be addressed to:

U.S. Department of Housing and Urban Development  
Attention: FOIA Appeals  
Office of Ethics, Appeals and Personnel Law  
Ethics and Appeals Division  
451 Seventh Street, SW, Suite 2130  
Washington, DC 20410

Telephone: (202) 708-3815

You may submit your appeal online at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/foia/foiaappeals](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/foia/foiaappeals).

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

Telephone: 202-741-5770; toll free at 1-877-684-6448

FAX: 202-741-5769

Email: [ogis@nara.gov](mailto:ogis@nara.gov)

If you have any questions regarding your request, please contact me at (202) 402-4315. Thank you for your interest in the Department’s programs and policies.

Sincerely,

**Eugene McGirt**

Eugene McGirt  
Government Information Specialist