CREW | citizens for responsibility and ethics in washington

February 28, 2018

Helen M. Albert
Inspector General
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

Dear Inspector General Albert:

As a follow up to our letter of February 14, 2018, Citizens for Responsibility and Ethics in Washington ("CREW") writes to bring your attention to recent reports concerning new examples of the potentially undue influence Secretary Ben Carson's wife Candy Carson has attempted to have on the U.S. Department of Housing and Urban Development ("HUD") and further evidence of Secretary Carson's apparent disregard for governing rules. This new reporting also documents abuse in HUD's processing of Freedom of Information Act ("FOIA") requests that warrants review by your office.

For Fiscal Year 2017, Congress limited the amount of money a cabinet secretary could spend on refurbishing or redecorating their office to $5,000. Public Law 115-31, 131 Stat. 379, section 710, signed into law on May 5, 2017, states:

> During the period in which the head of any department or agency . . . holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office . . . unless advance notice of such furnishing or redecoration is transmitted to the committees on Appropriations of the House of Representatives and the Senate.

This same provision defines "office" to "include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual." When Secretary Carson began his tenure at HUD on March 2, 2017, he was initially subject to the terms of Continuing Resolutions P.L. 114-223 and P.L. 114-254, which also limited him to $5,000 funds for furnishing or redecorating his office.

According to recent reporting, Secretary Carson has expended or attempted to expend funds that exceed the congressional allotment for office decoration, at the instigation of his wife, Candy Carson. First, Helen Foster, a senior HUD career official, claims she was demoted and replaced by a Trump administration appointee after she refused to fund an expensive redecoration of Secretary Carson's office undertaken by his wife.[1] At a time when HUD was

[1] Jon Swaine and Ben Jacobs, Housing Official Says She Was Replaced for Rejecting Carson's Costly Office Redecoration, *The Guardian*, Feb. 27, 2018, *available at* https://www.theguardian.com/us-news/2018/feb/27/hud-ben-carson-office-redecoration-trump-appointee; Rene Marsh, '$5,000 Will Not Even Buy a Decent Chair': HUD Staffer Files Complaint Over Ben Carson Office Redecoration, *CNN*, Feb. 27, 2018, *available at* https://www.cnn.

suffering from a $10 million budget shortfall, the employee was urged to exceed the $5,000 spending limit congressionally appropriated for any redecoration and "to 'find money' for Mrs. Carson[.]"[2] In an interview with *CNN*, Ms. Foster described multiple times where she was "pushed . . . to assist Carson's wife with finding the money, it was always 'in the context of Mrs. Carson wants to do this. We have to find the money.'"[3] According to a memo sent by HUD's Office of the Chief Financial Officer, spending more than the appropriated $5,000 without notice to Congress "would violate the Antideficiency Act[.]"[4]

Second, Secretary Carson purportedly spent $31,000 in late 2017 for a new custom dining room set for his office suite.[5] This purchase was made "just as the White House circulated its plans to slash HUD's programs for the homeless, elderly and poor," and after Secretary Carson and his wife had "expressed a strong interest in sprucing up the drab, wood-paneled, 1960s-era secretary's suite" according to the *New York Times*.[6] This purchase far exceeds the $5,000 allotted for the redecoration of Secretary Carson's office, which clearly encompasses the dining room that is part of his 10th-floor suite and a space primarily for his use. Further, there is no evidence, and HUD has not claimed, that HUD gave the requisite notice to congressional appropriations committees about the purchase.

This reporting amplifies the evidence we provided you in our earlier letter of the role Secretary Carson's family has played at HUD and further illustrates the apparent disregard of Secretary Carson and his family for the governing rules and their ethical obligations. We respectfully request that your ongoing investigation include these newly reported actions.

A report by *The Guardian* also documents apparent political pressure being brought to bear on HUD's FOIA office. According to Ms. Foster, before her demotion from her position as chief administrative officer, she oversaw HUD's FOIA office. In that capacity, she was contacted by HUD's Office of General Counsel and told they had been asked to "discretely handle" two newly received FOIA requests "outside of the normal FOIA processes" as a result of a decision by Maren Kasper, who at that time was the HUD liaison to the White House.[7] The requests sought information about Lynne Patton, a controversial hire at HUD who had formerly served as

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com/2018/02/27/politics/ben-carson-office-furniture-whistleblower/index.html. Ms. Foster has filed a complaint with the Office of Special Counsel. *Id.*

[2] Swaine and Jacobs, *The Guardian*, Feb. 27, 2018.

[3] Marsh, *CNN*, Feb. 27, 2018.

[4] *Id.*

[5] Glenn Thrush, Ben Carson's HUD, Planning Cuts, Spends $31,000 on Dining Set for His Office, *New York Times*, Feb. 27, 2018, *available at* https://www.nytimes.com/2018/02/27/us/ben-carson-hud-furniture.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region&region=top-news&WT.nav=top-news.

[6] *Id.* Of note, last week a HUD spokesperson falsely denied the dining table had been purchased. Jon Swaine, US Housing Department to Spend $165,000 on Own Furniture as It Faces $6.8 bn Budget Cut, *The Guardian*, Feb. 27, 2018, *available at* https://www.theguardian.com/us-news/2018/feb/27/ben-carson-spokesman-falsely-denied-expensive-table-bought?CMP=share_btn_tw.

[7] Swaine and Jacobs, *The Guardian*, Feb. 27, 2018.

an event planner for the Trump family.[8] According to *The Guardian*, the responsive information would have shown "that Ms. Patton wanted Ms. Kasper fired because she was critical of President Trump."[9] Ms. Foster has alleged this was an attempt to "sideline[]" her "as a possible attempt to break federal law, which gave her responsibility for the appropriate release of information."[10] If true, the actions of HUD's Office of General Counsel may have been an inappropriate attempt to assert political pressure to affect the processing of a FOIA request seeking information that may have placed the agency and high-level agency officials in a negative light.

Beyond this example, HUD has processed two of CREW's FOIA requests in a manner that suggests political pressure may have played a role. On August 7, 2017, following a report in the *Washington Post* about the role Secretary Carson's family was taking at HUD, CREW sent a FOIA request to HUD seeking communications between Mrs. Carson and 11 named HUD officials, and communications between Secretary Carson's son B.J. Carson and those same 11 individuals. In response, HUD denied CREW's request for a public interest fee waiver on the basis that the request was not in the public interest. CREW filed an administrative appeal of this finding, which also was denied on the basis that CREW had "only speculated" its requested documents "may demonstrate" the level of influence of the Secretary's wife and son on agency business.

CREW filed a second FOIA request with HUD on September 20, 2017, seeking records related to the authorization for and costs of Secretary Carson's use of non-commercial aircraft for any official travel. Again, HUD denied CREW's requested fee waiver, using identical language it had used in its response to CREW's August 7 FOIA. CREW again appealed, and HUD again denied that appeal stating only that CREW had not satisfied the statutory criteria.

In each of these cases, CREW is seeking information that likely will show Secretary Carson or his family in a negative light. CREW along with another non-profit organization, the Freedom From Religion Foundation, has now filed a lawsuit alleging HUD has engaged in a pattern and practice of improperly denying public interest groups fee waivers.[11] Together with the most recent allegations against the HUD FOIA office brought to light by *The Guardian*, these actions strongly suggest political forces at HUD have attempted to influence how the agency processes FOIA requests.

The Freedom of Information Act provides the public with an invaluable tool to access information about what our government is up to and why. That right is seriously compromised and undermined when agencies inject political considerations into the FOIA process. To protect and ensure the integrity of the FOIA processing at HUD, CREW respectfully requests that your office investigate whether political appointees at HUD have improperly interfered in how the

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[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Freedom From Religion Foundation, et al. v. U.S. Dep't of Housing Development*, Civil No. 18-0114 (D.D.C.).

requests of CREW and others are handled to prevent the revelation of information that might place Secretary Carson or HUD in a negative light. CREW also requests that your ongoing investigation of the role Secretary Carson's family has played at HUD include an examination of the expenditure of agency funds for decorating the Secretary's office.

Sincerely,

Noah Bookbinder
Executive Director
Citizens for Responsibility and Ethics
in Washington