



April 30, 2018

Via email (FOIA@fec.gov)

Federal Election Commission
Attn: FOIA Requester Service Center
Room 408
999 E. Street, N.W.
Washington, D.C. 20463

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, *et seq.*, and Federal Election Commission (“FEC”) regulations.

First, CREW requests all documents concerning or reflecting the efforts of the FEC to conform with the court’s decision in *CREW v. FEC*, No. 16-cv-2255, 2018 WL 1401262 (D.D.C. March 20, 2018) (“*CREW v. FEC*”).

Second, CREW requests the FEC’s Office of General Counsel memorandum in this matter setting forth its recommendation whether to appeal the March 20, 2018 decision of the district court.

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 that 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), *cert. denied*, 415 U.S. 977 (1974). 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*, 566 F.2d 242, 261 (D.C. Cir 1977).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and FEC 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 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 is primarily and fundamentally for non-commercial purposes. *See McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

In the most recent *CREW v. FEC* decision, the district court found that the FEC's dismissal of CREW's complaint against the American Action Network ("AAN"), based on the group's failure to disclose its expenses and contributors, was contrary to law. As a result, the FEC was obligated to conform to the court's judgment within 30 days. *CREW v. FEC* at *14. When the FEC failed to do so, CREW sued AAN directly pursuant to the Federal Election Campaign Act, 52 U.S.C. § 30109(a)(8)(C). Subsequently, FEC Chair Caroline C. Hunter and Commissioner Matthew S. Petersen issued a statement expressing their strong disagreement with the *CREW v. FEC* decision. The two commissioners also noted in a footnote to their statement that they "support the Commission making public the record of our efforts to conform with the court's decision, along with the Office of General Counsel's memorandum setting forth its recommendation whether to appeal."

As these two commissioners appear to recognize, the public would be best served by access to the full record of the FEC's actions in response to the *CREW v. FEC* decision, as well as the appeal recommendation of the FEC's general counsel. This information will help the public assess the FEC's conduct and better evaluate the strengths and weaknesses of its legal positions. Given that AAN is a major dark money group that to date has refused to comply with its statutory obligations, information about the legality of its conduct and steps the FEC has or has not taken to compel AAN's compliance with the law clearly are in the public interest.

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 and to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. 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 blogposts that report on and analyze 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 our website, which has 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 releasing fully the requested records on an expedited basis, 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 FEC to process it within the FOIA’s deadlines. In addition, if CREW’s request for a fee waiver is not granted in full, please contact our office immediately upon making such determination.

Where possible, please produce records in electronic form. Please send the requested records to me either at aweismann@citizensforethics.org or to Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Avenue, N.W, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel