

October 19, 2018

BY EMAIL: usoge@oge.gov

OGE FOIA Officer
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, D.C. 20005-3917

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 Office of Government Ethics (“OGE”) regulations.

First, CREW requests a copy of AIMS Entry 13489.

Second, CREW requests a copy of an email from Acting Director David Apol to Stefan Passantino dated October 6, 2017 and referenced in AIMS Entry 13761.

Third, CREW requests copies of all emails in the thread of exchanges between OGE that contain Mr. Apol’s October 6, 2017 email to Mr. Passantino, including any additional conversations that involve other OGE employees. Please search for responsive records regardless of format, medium, or physical characteristics. 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 OGE 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).

It is our understanding that the requested documents contain advice OGE gave to the White House regarding whether the Republican National Committee (“RNC”) is a “prohibited source” for purposes of the executive branch gift rules. The requested documents will shed light on whether former Trump campaign officials who are now government officials and are eligible beneficiaries of the Patriot Legal Expense Fund Trust, LC, are complying with the gift rules. According to a recent press report, campaign officials have facilitated the use of the legal fund to reimburse the legal bills of former campaign officials.¹ The fund has not disclosed its members’ identities, although reportedly it is “deeply intertwined with the Trump campaign.”²

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 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 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.

¹ Jeremy Diamond, [Pro-Trump Legal Fund Making Payments, But Won’t Say Who’s Benefiting](https://www.cnn.com/2018/10/15/politics/trump-legal-fund/index.html), *CNN*, Oct. 15, 2018, available at <https://www.cnn.com/2018/10/15/politics/trump-legal-fund/index.html>.

² *Id.*

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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,

A handwritten signature in black ink, appearing to read "Anne L. Weismann". The signature is fluid and cursive, with a prominent initial "A" and "W".

Anne L. Weismann
Chief FOIA Counsel