



January 25, 2019

BY FACSIMILE: (202) 501-2727

U.S. General Services Administration
FOIA Requester Service Center (H1F)
1800 F Street, N.W., Room 7308
Washington, D.C. 20405-0001

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. General Service Administration (“GSA”) regulations.

First, CREW requests copies of all communications concerning the decision of GSA to transfer money from the Federal Buildings Fund to the National Park Service to reopen the Old Post Office clock tower at Trump International Hotel in Washington, D.C.

Second, CREW requests copies of all records concerning any decision of GSA not to use the Federal Buildings Fund to reopen any other federal office or space closed because of the current partial government shutdown.

Third, CREW requests copies of records sufficient to show any restrictions or pre-conditions on GSA’s use of money from the Federal Buildings Fund to reopen any federal office or space closed because of the current partial government shutdown.

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).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, GSA should institute an agency-wide preservation hold on documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and GSA 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).

The Old Post Office Tower is located within the Trump International Hotel in Washington, D.C. On December 22, 2018, when Congress failed to enact legislation that would fund agencies whose appropriations were set to expire, including the Interior Department of which the National Park Service is a part, access to the tower was closed by the National Park Service.¹ On January 2, 2019, it was revealed that the tower would reopen with funding from GSA.² When questioned about this funding, a GSA spokesperson initially described the funds for the soon-to-be reopened tower as “not associated with the current fiscal year’s (FY 2019) appropriations bill.”³ Subsequently it was revealed that GSA was using the Federal Buildings Fund to pay the costs of reopening and staffing the tower with National Park Service employees.⁴

The requested records will shed light on the rationale for using Federal Buildings Fund money to fund the clock tower, while keeping shut other more valuable public buildings and allowing unsafe conditions to continue at other National Park sites. The ranking member of the Senate Homeland Security and Governmental Affairs Committee has already raised questions about GSA’s use of these funds,⁵ underlining the importance of the requested information to the public.

¹ Jennifer Yachnin, [Old Post Office Tower at Trump hotel to open during shutdown](https://www.eenews.net/stories/1060110755), *E & E News*, Jan. 2, 2019, available at <https://www.eenews.net/stories/1060110755>.

² *Id.*

³ Tal Axelrod, [Old Post Office tower on Trump property to remain open during shutdown](https://thehill.com/homenews/administration/423605-old-post-office-tower-on-trump-property-to-reopen-during-shutdown), *The Hill*, Jan. 2, 2019, available at <https://thehill.com/homenews/administration/423605-old-post-office-tower-on-trump-property-to-reopen-during-shutdown>.

⁴ Charles S. Clark, [Senator Challenges Park Service Deal to Keep Tower Open in Trump Hotel](https://www.gov.exec.com/management/2019/01/senator-challenges-park-service-deal-keep-tower-open-trump-hotel/154117/), *Government Executive*, Jan. 11, 2019, available at <https://www.gov.exec.com/management/2019/01/senator-challenges-park-service-deal-keep-tower-open-trump-hotel/154117/>.

⁵ *Id.*

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 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.

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. Where possible, please produce records in electronic format. Please send the requested records to me either at aweismann@citizensforethics.org or Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel