

January 3, 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 records concerning or explaining the reopening this week of the Old Post Office Tower at Trump International Hotel in Washington, D.C.

Second, CREW requests copies of all records pertaining to or supporting the statement of a GSA spokesperson on January 3, 2019, that the Old Post Office Tower “remains open as the funds needed to operate the Old Post Office tower are not associated with the current fiscal year’s (FY 2019) appropriations bill. The overall operation of the tower was a part of the government’s lease signed in August 2013, and in response to the ‘Old Post Office Building Redevelopment Act of 2008’”

Third, CREW requests copies of all records pertaining to the funding for the reopening of the Old Post Office Tower including, but not limited to, the source of the funds.

Fourth, CREW requests copies of all communications with the White House concerning the decision to reopen the Old Post Office Tower and the funding to keep the tower open.

Fifth, CREW requests copies of all communications with the National Park Service concerning the decision to reopen the Old Post Office Tower and the funding to keep the tower open.

Sixth, CREW requests copies of all communications with the Trump Organization concerning the decision to reopen the Old Post Office Tower and the funding to keep the tower open.

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 described the funds for the soon-to-be reopened tower as “not associated with the current fiscal year’s (FY 2019) appropriations bill.”³ The GSA lease for the facility charges Trump Hotels with responsibility to

¹ Jennifer Yachnin, Old Post Office Tower at Trump hotel to open during shutdown, *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, *The Hill*, Jan. 2, 2019, available at <https://thehill.com/homenews/administration/423605-old-post-office-tower-on-trump-property-to-reopen-during-shutdown>.

maintain public access to the tower and expressly designates the Clock Tower Space “as part of the Premises . . . for which Tenant is responsible.”⁴

The requested records will shed light on the true source of funding to reopen a facility for which the National Park Service bears responsibility. The requested records also will reveal the extent to which GSA’s decision to fund the tower’s reopening was directed by either President Trump or the Trump Organization to advance the President’s personal economic interests at a time when over 800,000 of the federal workforce are not getting paid due to President Trump’s decision to shut down the government in significant part over Congress’ failure to fund a wall on our Southern border.

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

⁴ Yachnin, *E & E News*, Jan. 2, 2019.

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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