

March 8, 2019

BY FACSIMILE: 202-619-8365

U.S. Department of Housing and Urban Development
Freedom of Information Act Office
451 Seventh Street, S.W., Room 10139
Washington, D.C. 20410-3000

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. Department of Housing and Urban Development (“HUD”) regulations.

First, CREW requests copies of all communications between HUD Regional Administrator Lynne Patton and any other HUD employee concerning her request and/or intent to participate in a reality TV show that currently is under development by the production company Truly Original.

Second, CREW requests copies of all communications within HUD pertaining to Ms. Patton’s potential participation in a reality TV show.

Third, CREW requests copies of all communications between Ms. Patton and HUD’s Ethics Office concerning her ability to engage in outside employment while working at HUD.

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).

Fee Waiver Request

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

On February 27, 2019, during a highly contentious hearing before the House Oversight Committee, Rep. Mark Meadows drew attention to Ms. Patton, who was standing behind him, while he challenged Michael Cohen's testimony concerning President Trump's racism.¹ Ms. Patton's participation in that hearing drew widespread notice and generated extensive controversy, including accusations that she served as a "prop" for Rep. Meadows in what many saw as an insulting effort by the congressman to counteract Mr. Cohen's testimony about the President's racism and racist acts and statements.² Following her appearance it emerged that Ms. Patton was planning on participating in a reality TV show while serving as a high-ranking federal official.³ Reportedly, she has consulted the Ethics Office at HUD about her ability to engage in such outside employment.⁴

Ms. Patton's intent to participate in a reality TV show raises a number of ethics issues given the prohibition in 5 C.F.R. § 2635.807(a)(2)(i)(B) on her earning any outside income if the subject matter of the show is "related to her HUD job or the circumstances indicate she was extended the offer because of her official position. The requested records would shed light on the extent to which HUD was knowledgeable about and may even have approved her intended participation in a reality TV show and the extent to which she accurately represented to HUD the nature of her appearance and its possible relationship to her official HUD position.

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,

¹ *See, e.g.,* Tracy Jan, [Why did a GOP congressman invite this HUD official to stand behind him at the Michael Cohen hearing?](https://www.washingtonpost.com/pb/business/2019/02/27/why-did-gop-congressman-invite-this-hud-official-stand-behind-him-michael-cohen-hearing/?nid=menu_nav_accessibilityforscreenreader&outputType=accessibility&utm_term=.386d08a97b56), *Washington Post*, Feb. 27, 2019, available at https://www.washingtonpost.com/pb/business/2019/02/27/why-did-gop-congressman-invite-this-hud-official-stand-behind-him-michael-cohen-hearing/?nid=menu_nav_accessibilityforscreenreader&outputType=accessibility&utm_term=.386d08a97b56.

² Jan, *Washington Post*, Feb. 27, 2019.

³ *See, e.g.,* Ray Sanchez and Rene Marsh, [Lynn Patton, a Trump housing official, says she has presidential OK for reality TV](https://www.cnn.com/2019/03/07/politics/hud-lunne-patton-tv-show/index.html?no-st=1552058091), *CNN*, Mar. 7, 2019, available at <https://www.cnn.com/2019/03/07/politics/hud-lunne-patton-tv-show/index.html?no-st=1552058091>.

⁴ *Id.*

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, 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. Also, if CREW's request 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 Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1101 K Street, N.W., N.W, Suite 201, Washington, D.C. 20005. Thank you for your assistance in this matter.

Sincerely,



Anne L. Weismann
Chief FOIA Counsel