

# CREW | citizens for responsibility and ethics in washington

May 8, 2019

**BY EMAIL: Library.Bush@nara.gov**

The George Bush Presidential Library and Museum  
Attn: Textual Archives  
1000 George Bush Drive West  
College Station, Texas 77845

**Re: Freedom of Information Act Request**

Dear FOIA Coordinator:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”) and the Presidential Records Act (PRA), 5 U.S.C. § 552, and 44 U.S.C. § 2204(c).

First, CREW requests copies of all records of all communications relating to or discussing the application of the Foreign or Domestic Emoluments Clauses between the Department of Justice (“DOJ”) and the Bush White House Counsel’s office. This may include, but is not limited to, all related correspondence between DOJ and the White House Counsel’s office, all related memoranda, all draft opinions, and any other communications between DOJ and the White House Counsel’s office relating to or mentioning the Clauses.

Second, CREW requests copies of all records of internal Bush White House Counsel’s office communications relating to or discussing the application of the Foreign or Domestic Emoluments Clauses. This may include, but is not limited to, all related correspondence, all related memoranda, all draft opinions, and any other internal communications relating to or mentioning the Clauses.

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), 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).

CREW is currently engaged in litigation challenging President Trump's acceptance of payments from foreign and state governments, potential violations of the Foreign and Domestic Emoluments Clauses.<sup>1</sup> The Emoluments Clauses are little-adjudicated provisions of the constitution. Interpretations of the Clauses are a key part of the lawsuit.<sup>2</sup> In the absence of meaningful judicial precedent, DOJ and White House Counsel opinions and advice are integral to understanding how the government interprets the Clause.

The requested records would shed light on the process by which government attorneys came to its conclusions about the Emoluments Clauses and the reasoning OLC and White House attorneys used in deciding opinions and advising the president and White House staff. They would also reveal important information about how government attorneys have interpreted and applied the Clause. Understanding how and why government attorneys came to these conclusions is integral to CREW's public-interest litigation, as well as CREW's general interests in understanding and promoting ethics in the executive branch and government attorneys' interpretations of ethical matters relating to government employees, including the president.

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 documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

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<sup>1</sup> *See* The District of Columbia and the State of Maryland v. Donald J. Trump – Emoluments, available at <https://www.citizensforethics.org/lawsuit/district-columbia-state-maryland-v-donald-j-trump/>.

<sup>2</sup> *See* District of Columbia v. Trump, 291 F. Supp. 3d 725, 757 (D. Md. 2018).

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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 [cshaw@citizensforethics.org](mailto:cshaw@citizensforethics.org). Also, if CREW’s request for expedition and/or 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 [cshaw@citizensforethics.org](mailto:cshaw@citizensforethics.org) or Conor Shaw, 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,

A handwritten signature in blue ink, appearing to read 'C. Shaw', with a stylized flourish extending to the right.

Conor Shaw  
Staff Counsel