

October 15, 2019

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 pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Office of Government Ethics (“OGE”) regulations.

Specifically, CREW requests the following:

1. The letter dated September 16, 2019 to OGE from the Chair of the House Committee on Oversight and Reform (“Oversight Committee”), Elijah Cummings, which is referenced in the October 4, 2019 letter from OGE Director Emory Rounds.¹
2. All records that OGE provided in response to Chairman Cummings’s September 16, 2019 letter, including the materials OGE provided via a flash drive to each of the Oversight Committee’s majority and minority offices and those made available to the Oversight Committee at OGE’s office.
3. All records of communications with any of the following regarding Chairman Cummings’ September 16, 2019 letter: Ranking Member Jim Jordan, Chairman Cummings, the Oversight Committee, committee staff, or any member’s staff.
4. All communications with the Department of Transportation regarding the September 16, 2019 letter from Chairman Cummings.

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*

¹ Letter from Emory Rounds, Director, Office of Government Ethics, to Elijah Cummings, Chair, House Committee on Oversight and Reform (Oct. 4, 2019), *available at* <https://bit.ly/2IEIU93>.

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).

The requested records are likely to contribute to greater public understanding of Secretary Chao's ethics challenges and the steps the Department of Transportation and OGE may have taken to address them. The records are of significant interest to the public given reporting about Secretary Chao's failure to comply with the terms of her original ethics agreement as it pertained to her divestiture of Vulcan Materials,² her conduct as Secretary of Transportation in relation to her family's company, the Foremost Group,³ and her alleged favoritism toward constituents of her husband, Senate Majority Leader Mitch McConnell.⁴

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").

² Ted Mann and Brody Mullins, [Transportation Secretary Still Owns Stock She Pledged to Divest](https://on.wsj.com/2EOPR4H), *Wall Street Journal*, May 28, 2019, available at <https://on.wsj.com/2EOPR4H>; Ted Mann and Brody Mullins, [Elaine Chao Sells Vulcan Stock Holdings](https://on.wsj.com/2Xi7Gna), *Wall Street Journal*, June 13, 2019, available at <https://on.wsj.com/2Xi7Gna>.

³ Michael Forsythe, Eric Lipton, Keith Bradsher and Sui-Lee Wee, [A 'Bridge' to China, and Her Family's Business, in the Trump Cabinet](https://nyti.ms/2HQVr8j), *New York Times*, June 2, 2019, available at <https://nyti.ms/2HQVr8j>; Tanya Snyder, [Did Elaine Chao's DOT interviews help her family's business?](https://politi.co/2FS6Ws9), *Politico*, May 6, 2018, available at <https://politi.co/2FS6Ws9>.

⁴ Tanya Snyder, Tucker Doherty and Arren Kimbel-Sannit, [Elaine Chao favored Kentuckians in meeting with officials seeking grants](https://politi.co/31UQI2C), *Politico*, Oct. 7, 2019, available at <https://politi.co/31UQI2C>; Tucker Doherty and Tanya Snyder, [Chao created special path for McConnell's favored projects](https://politi.co/2ItStps), *Politico*, June 10, 2019, available at <https://politi.co/2ItStps>.

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.

Conclusion

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 897-1845 or mlerner@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 mlerner@citizensforethics.org or at Meredith Lerner, 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,



Meredith Lerner
Research Associate