



December 2, 2019

**Sent via email: [vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)**

U.S. Department of Veterans Affairs FOIA Service  
810 Vermont Avenue, NW (005R1C) VACO  
Washington, DC 20420

**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 Veterans Affairs (“VA”) regulations.

First, CREW seeks any and all communications to or from Brooks D. Tucker, Assistant Secretary for Office of Congressional and Legislative Affairs, related to the Improve Well-Being for Veterans Act, also known as the IMPROVE Act, and a possible visit by VA Secretary Wilkie to a Member or Senator’s congressional district at any time between January 1, 2019, and the date on which the agency conducts its search for records responsive to this FOIA request.

Second, CREW seeks any and all communications to or from Lesia Mandzia, Director, VA Office of Congressional and Legislative Affairs, related to the Improve Well-Being for Veterans Act, also known as the IMPROVE Act, and a possible visit by VA Secretary Wilkie to a Member or Senator’s congressional district at any time between January 1, 2019, and the date on which the agency conducts its search for records responsive to this FOIA request.

Third, CREW seeks any and all communications to or from Glenn Johnson, Director, VA Office of Congressional and Legislative Affairs, related to the Improve Well-Being for Veterans Act, also known as the IMPROVE Act, and a possible visit by VA Secretary Wilkie to a Member or Senator’s congressional district at any time between January 1, 2019, and the date on which the agency conducts its search for records responsive to this FOIA request.

Fourth, CREW seeks any and all communications to or from Ca-Asia Lane, VA Office of Congressional and Legislative Affairs, related to the Improve Well-Being for Veterans Act, also known as the IMPROVE Act, and a possible visit by VA Secretary Wilkie to a Member or Senator’s congressional district at any time between January 1, 2019, and the date on which the agency conducts its search for records responsive to this FOIA request.

Fifth, CREW seeks any and all communications to or from AJ Brooks, VA Office of Congressional and Legislative Affairs, related to the Improve Well-Being for Veterans Act, also

known as the IMPROVE Act, and a possible visit by VA Secretary Wilkie to a Member or Senator's congressional district at any time between January 1, 2019, and the date on which the agency conducts its search for records responsive to this FOIA request.

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 Veterans Affairs Department 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 August 21, 2018, senior White House aides reportedly revealed in a call with reporters that various "official" government events attended by President Trump and senior administration officials have been part of a coordinated effort to help Republicans in upcoming elections.<sup>1</sup> According to an unnamed White House official, "the president's Cabinet and senior staff have done 35 events with or affecting House districts in August [2018] already."<sup>2</sup> These events purported were official government events that presumably were paid for with government funds. Since then, the Trump Administration has continued to use official

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<sup>1</sup> S.V. Date, [White House Admits Trump Is Using Official Events for Midterm Campaigning](https://www.huffingtonpost.com/entry/trump-official-campaign_us_5b7c896ce4b07295150dc45d), *Huffington Post*, Aug. 22, 2018, available at [https://www.huffingtonpost.com/entry/trump-official-campaign\\_us\\_5b7c896ce4b07295150dc45d](https://www.huffingtonpost.com/entry/trump-official-campaign_us_5b7c896ce4b07295150dc45d).

<sup>2</sup> *Id.*

government events for political purposes.<sup>3</sup> As the *New York Times* has recently reported, the President has frequently “turned presidential speeches into political ones, and official trips around the country into campaign opportunities, complete with taunts of his rivals, riffs about his enemies, pleas for votes and fear-mongering about what will happen if he loses.”<sup>4</sup>

Any trips or proposed trips by senior VA officials for political purposes could implicate the Hatch Act, which prohibits nearly every executive branch official from using their “official authority or influence for the purpose of interfering with or affecting the result of an election.”<sup>5</sup> In cases involving mixed travel – travel that includes attendance at both official and political events during the same trip – the law requires the costs be properly apportioned between the federal government and the relevant political organization or candidate to ensure that the federal government is appropriately reimbursed for taxpayer funds expended for political events.<sup>6</sup> As a result, any such trips could implicate federal appropriations laws including the Purpose Statute as well. The requested records would shed light on whether officials at the VA within the Office of Congressional and Legislative Affairs are in full compliance with these and related statutes.

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](http://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 a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to

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<sup>3</sup> Annie Karni and Maggie Haberman, *As Campaign Season Heats Up, Trump Has Turned the Official Into the Political*, *New York Times*, Nov. 25, 2019, available at <https://www.nytimes.com/2019/11/08/us/politics/trump-campaign-rallies.html>.

<sup>4</sup> *Id.*

<sup>5</sup> 5 U.S.C. § 7323(a)(1).

<sup>6</sup> See U.S. Office of Special Counsel, OSC Advisory Regarding Mixed Travel by Presidentially-Appointed/Senate Confirmed (PAS) Employees (Oct. 6, 2011; 5 U.S.C. § 7324(b); 5 C.F.R. § 734.503.

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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](mailto:aweismann@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 [aweismann@citizensforethics.org](mailto: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,

A handwritten signature in black ink, appearing to read 'Anne L. Weismann', written in a cursive style.

Anne L. Weismann  
Chief FOIA Counsel