

February 19, 2020

**BY EMAIL:** [whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil](mailto:whs.mc-alex.esd.mbx.osd-js-foia-requester-service-center@mail.mil)

U.S. Department of Defense  
OSD/JS FOIA Requester Service Center  
Defense Freedom of Information Division  
1155 Defense Pentagon  
Washington, D.C. 20301-1155

**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 Defense (“DOD”) regulations.

Specifically, CREW requests all documents from January 1, 2017 to the present mentioning, referencing, or involving both Defense Secretary Mark Esper and Raytheon, or Raytheon Political Action Committee.

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 DOD 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).

Defense Secretary Mark Esper spent years as weapons manufacturer Raytheon's top lobbyist before joining the Trump administration. His job, as he described it on his financial disclosure form, was to be "Responsible for company interactions with members of Congress and their staff at the Federal level and with all state and local elected officials and their staff." Now that Esper is Defense Secretary, he does a lot more than interact with members of Congress and their staff—he is the principle policymaker and adviser for the Department of Defense, and signs off on massive government contracts.

The authority that Secretary Esper enjoys as Secretary of Defense places him in a powerful position to affect Raytheon's financial position. For example, following the targeted killing of Iranian General Qassem Soleimani by American military forces on January 3rd, Raytheon's stock shot up, closing at a record high and suggesting it anticipated further lucrative government contracts. Secretary Esper's former employment casts a shadow over every decision he makes as Secretary of Defense, and raises questions about whether he still communicates with or about Raytheon. These questions are even more urgent given that Secretary Esper has refused to commit to recuse from matters related to Raytheon,<sup>1</sup> or to commit not to rejoin the company when he leaves the government.<sup>2</sup>

The public has a strong and compelling interest in learning whether Secretary Esper has had any communications with or made or participated in decisions concerning Raytheon while he is in a position to dramatically affect the company's profits. If national security decisions are being made with Raytheon's interests in mind then the public needs to know that the public's interests are taking a back seat to a weapons corporation.

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.

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<sup>1</sup> Kirby, Jen. [Elizabeth Warren grills defense secretary nominee Mark Esper over Raytheon lobbying](https://www.vox.com/world/2019/7/16/20696452/mark-esper-defense-secretary-raytheon-lobbying-warren), *Vox*, July 16, 2019, <https://www.vox.com/world/2019/7/16/20696452/mark-esper-defense-secretary-raytheon-lobbying-warren>

<sup>2</sup> Sisk, Richard. [Esper Refuses to Recuse Himself on Raytheon Matters in SecDef Confirmation Hearing](https://www.military.com/daily-news/2019/07/16/esper-refuses-recuse-himself-raytheon-matters-secdef-confirmation-hearing.html), *Military.com*, July 16, 2019, <https://www.military.com/daily-news/2019/07/16/esper-refuses-recuse-himself-raytheon-matters-secdef-confirmation-hearing.html>

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 blog posts 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) 408-5565 or [lhonl-stuenkel@citizensforethics.org](mailto:lhonl-stuenkel@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 [lhonl-stuenkel@citizensforethics.org](mailto:lhonl-stuenkel@citizensforethics.org) or at Linnaea Honl-Stuenkel, 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,

Linnaea Honl-Stuenkel