



citizens for responsibility
and ethics in washington

April 8, 2020

BY EMAIL: foia@exim.gov

Chief FOIA Officer Lisa V. Terry
Freedom of Information and Privacy Office
811 Vermont Ave. N.W.
Washington, D.C. 20571

Re: Freedom of Information Act Request

Dear Ms. Terry:

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 Export-Import Bank of the United States (EXIM) regulations at 5 C.F.R. part 2604.

Specifically, CREW requests the following:

First, CREW requests copies of records sufficient to show all of Senior Vice President and General Counsel David Slade’s scheduled meetings, appointments, and scheduled events for May 13, 2019 to the present, including but not limited to Outlook calendar entries and daily briefing books for Mr. Slade on those dates.

Second, CREW requests all records of communications from May 13, 2019 to the present between Mr. Slade and employees of the law firm Allen & Overy.

Third, CREW requests all records of communications from May 13, 2019 to the present between Mr. Slade and any of his former clients from his time working at Allen & Overy.

Fourth, CREW requests a copy of the ethics pledge contained in Executive Order 13770 signed by Mr. Slade.

Please search for records created between May 13, 2019 to the date EXIM conducts the search.

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.

If it is your position that 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 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 agency 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 April 8, 2020, the Office of Government Ethics released a partial waiver to Executive Order 13770 authorizing Mr. Slade to participate in “particular matters, communications, and meetings involving or relating to his former employer, Allen & Overy.”¹ While no date is listed on the actual waiver indicating when it may have been issued to Mr. Slade, the file name of the waiver is “2019.8.15 Slade Waiver.pdf,”² which suggests that the waiver was issued on August 15, 2019. Mr. Slade was appointed to his position at EXIM on May 13, 2019,³ roughly three months before he may have received the waiver. CREW is requesting these records to see if Mr. Slade may have engaged in any activity related to his former employer or clients that would have violated paragraph 6 of Executive Order 13770 before he was issued the partial waiver discussed above.

As such, the requested records are of significant interest to the public as they will shed light on whether Mr. Slade may have violated a portion of the ethics pledge contained in Executive Order 13770 or conflict of interest laws and regulations during the course of his duties as Senior Vice President and General Counsel.

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,

¹ Office of Gov’t Ethics, Memorandum for David R. Slade, General Counsel, Export-Import Bank of the United States, Waiver Certification Under Section 3 of Executive Order 13770, available at <https://bit.ly/39TcsJN>.

² *Id.*

³ Export-Import Bank of the U.S., Officer Bio, David Slade, available at <https://bit.ly/34s21Mf>.

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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").

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 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) 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