

April 9, 2020

SENT VIA EMAIL: FOIASTAFF@cigie.gov

FOIA Officer
Council of the Inspectors General on Integrity and Efficiency
1717 H Street, NW, Suite 825
Washington, D.C. 20006

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 Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) regulations.

Specifically, CREW requests:

(1) All documents and records of communications between and among Executive Director Alan Boehm, General Counsel Atticus J. Reaser, and/or Chief Administrative Officer Steve Blue between June 1, 2019 and the present related to CIGIE’s recommendation to the White House Office of the Chief of Staff, Office of the White House Counsel or the White House Office of President Personnel regarding CIGIE’s recommendation for inspector general candidates.

(2) All documents and records of communications to or from Executive Director Alan Boehm, General Counsel Atticus J. Reaser, and/or Chief Administrative Officer Steve Blue between June 1, 2019 and April 6, 2020 concerning CIGIE evaluations or recommendations of candidates to serve as the Special Inspector General for Pandemic Recovery, the Central Intelligence Agency Inspector General, the Department of Defense Inspector General, the Department of Education Inspector General, or the Tennessee Valley Authority Inspector General;

(3) All documents and records of communications to or from Executive Director Alan Boehm, General Counsel Atticus J. Reaser, and/or Chief Administrative Officer Steve Blue between April 6, 2020 and the present concerning President Trump’s announcement of his intent to nominate individuals to serve as the Special Inspector General for Pandemic Recovery, the Central Intelligence Agency Inspector General, the Department of Defense Inspector General, the Department of Education Inspector General, or the Tennessee Valley Authority Inspector General;

(4) All records between June 1, 2019 and the present concerning CIGIE’s evaluations of individuals identified by CIGIE or the White House as candidates to serve as the Special Inspector General for Pandemic Recovery, the Central Intelligence Agency Inspector General, the Department of Defense Inspector General, the Department of Education Inspector General, or the Tennessee Valley Authority Inspector General; and

(5) All records between June 1, 2019 and the present concerning the criteria CIGIE has used to evaluate and recommend individuals to serve as the Special Inspector General for

Pandemic Recovery, the Central Intelligence Agency Inspector General, the Department of Defense Inspector General, the Department of Education Inspector General, or the Tennessee Valley Authority Inspector General;

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 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).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access the requested documents. Accordingly, because litigation reasonably is foreseeable, HHS should institute an agency-wide preservation hold on documents potentially responsive to this request.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and HHS 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).

President Trump announced his intention to nominate five individuals to fill critical Inspector General positions.¹ Several of these nominees' political connections to the President raise concerns about their independence.² For example, the President nominated Brian Miller, the

¹ The White House, [President Donald J. Trump Announces Intent to Nominate Individuals to Key Administration Posts](https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-individuals-key-administration-posts-27/), *WhiteHouse.gov*, Apr. 3, 2020, <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-individuals-key-administration-posts-27/>.

² *See, e.g.,* Katherine McIntire Peters, [Trump Fires Intel IG, Taps White House Confidant for Pandemic Oversight Role](https://www.govexec.com/oversight/2020/04/trump-fires-intel-ig-taps-white-house-confidant-pandemic-oversight-role/164370/), *Government Executive*, Apr. 4, 2020, <https://www.govexec.com/oversight/2020/04/trump-fires-intel-ig-taps-white-house-confidant-pandemic-oversight-role/164370/>; Donald K. Sherman, [Trump's Firing of Atkinson Shows us we Need Independent IGs. Some of His Picks Fall Well Short](https://www.citizensforethics.org/trumps-firing-atkinson-independent-inspectors-general/), *Citizens for Responsibility and Ethics in Washington*, Apr. 6, 2020, <https://www.citizensforethics.org/trumps-firing-atkinson-independent-inspectors-general/>.

President's Special Assistant and Senior Associate Counsel, to oversee the government's coronavirus response only days after Mr. Trump asserted supervisory authority over the position in his CARES Act signing statement.³ Furthermore, one of Mr. Trump's nominations may be underqualified. The White House nominated Andrew De Mello to lead the Department of Education's Office of Inspector General despite De Mello minimal experience in oversight and in practicing law.⁴ The timing of these nominations, as well as the President's past demands of loyalty from government officials,⁵ demands close scrutiny of the candidates and the White House's selection process. President Trump proposed these nominations the same day he fired Michael Atkinson, the Inspector General who informed Congress of the whistle-blower complaint that led to Mr. Trump's impeachment.⁶

The requested records will increase public understanding of the decision-making process that culminated in his picks of these five critical Inspector General candidates. Specifically, the records will show whether the White House consulted with and adhered to CIGIE's recommendations or nominated other individuals. This information will help the public evaluate the qualifications of the White House's nominees and the integrity of the White House's selection process. Since 5 U.S.C. app. § 3 requires inspectors general to be appointed "without regard to political affiliation and solely on the basis of integrity and demonstrated ability," these records will also help the public evaluate the legality of these nominations.

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").

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 the documents it receives under the FOIA on its website.

³ Katherine McIntire Peters, *Government Executive*, Apr. 4, 2020.

⁴ Donald K. Sherman, *Citizens for Responsibility and Ethics in Washington*, Apr. 6, 2020.

⁵ Jessica Taylor, *Comey: Trump Asked for 'Loyalty,' Wanted Him to 'Let' Flynn Investigation 'Go'*, *NPR*, June 7, 2017, <https://www.npr.org/2017/06/07/531927032/comey-trump-asked-for-loyalty-wanted-him-to-let-flynn-investigation-go>.

⁶ Charlie Savage, *Inspector General Fired by Trump Urges Whistle-Blowers 'to Bravely Speak Up'*, *New York Times*, Apr. 6, 2020, <https://www.nytimes.com/2020/04/06/us/politics/michael-atkinson-inspector-general-fired.html>.

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 on an expedited basis, please contact me at (202) 408-5565 or aweismann@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 either the email listed above 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". The signature is fluid and cursive, with a prominent initial "A" and "W".

Anne L. Weismann, Chief FOIA Counsel