

April 21, 2020

BY FOIAONLINE.GOV

National FOIA Office
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2310A)
Washington, DC 20460

Re: Freedom of Information Act Request

Dear FOIA 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 Environmental Protection Agency (“EPA”) regulations.

First, CREW requests all communications from March 30, 2020 to April 13, 2020 between the EPA’s Office of Inspector General and (1) President Trump; (2) White House employees, including anyone with an “*.eop.gov” email domain; or (3) attorneys or representatives acting on behalf of President Trump, regarding the appointment of EPA Inspector General (“IG”) Sean O’Donnell to serve as Acting IG for the Department of Defense.

Second, CREW requests all internal EPA Office of Inspector General communications from March 30, 2020 to April 13, 2020 regarding the appointment of Mr. O’Donnell to serve as Acting IG for the Department of Defense.

Third, CREW requests records sufficient to show every delegation of authority by an EPA IG to any other officer or employee that was in effect at any time from March 30, 2020 to the present.

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 emails to which the subjects of this request were cc’ed or bcc’ed.

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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and EPA 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 March 30, 2020, the Council of the Inspectors General on Integrity and Efficiency (“CIGIE”) announced the appointment of Glenn A. Fine, then-acting Inspector General (“IG”) for the Department of Defense (“DOD”), to serve as the chair of CIGIE’s Pandemic Response Accountability Committee (“PRAC”).¹ Congress created the PRAC to prevent and detect waste, fraud, and abuse in the use of funds provided by the federal government to address the impacts of the coronavirus pandemic.²

On April 6, 2020—one week after Mr. Fine’s appointment as chair of the PRAC—President Trump named EPA IG Sean O’Donnell to serve as the Acting DOD IG.³ The decision effectively removed Mr. Fine from his chairmanship of the PRAC, since only current inspectors general are eligible to serve in the position.⁴ To date, CIGIE has not appointed a new chair. Critics of the Trump Administration have accused the President of removing Mr. Fine in order to avoid strong oversight of federal spending.⁵ Environmental advocates have also raised concerns that oversight of EPA will necessarily suffer due to Mr. O’Donnell’s now-divided responsibilities over both EPA and DOD.⁶

The requested records will provide insight into Mr. O’Donnell’s appointment as Acting DOD IG, including when and how the EPA Office of Inspector General learned of the appointment and whether the EPA IG had concerns about overseeing two IG offices. By revealing information about the EPA IG’s delegations of authority, the records will also provide the public a greater understanding of the impact of Mr. O’Donnell’s appointment on the

¹ Council of the Inspectors General on Integrity & Efficiency, Press Release: Glenn A. Fine Appointed Chair of CIGIE’s Pandemic Response Accountability Committee, Mar. 30, 2020, <https://ignet.gov/sites/default/files/files/PRAC-press-release.pdf>.

² *Id.*

³ Dep’t of Defense Office of Inspector General, Sean O’Donnell: Acting Inspector General, <https://www.dodig.mil/Biographies/Bio-Display/Article/2142123/sean-odonnell/> (last visited Apr. 21, 2020).

⁴ Kyle Cheney and Connor O’Brien, Trump removes independent watchdog for coronavirus funds, upending oversight panel, *Politico*, Apr. 7, 2020, <https://www.politico.com/news/2020/04/07/trump-removes-independent-watchdog-for-coronavirus-funds-upending-oversight-panel-171943>.

⁵ *Id.*

⁶ *Id.*

functioning of the EPA Office of Inspector General. Finally, the records will shed light on whether the timing of Mr. O'Donnell's appointment as Acting DOD IG was related to Mr. Fine's appointment to chair the PRAC. The public deserves strong oversight over the trillions of taxpayer dollars being spent on the federal government's response to the coronavirus pandemic, and must understand any attempts by the Administration to undermine that oversight.

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 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 educate the public about these issues. In addition, CREW posts all documents it receives under the FOIA 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 lwhite@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 lwhite@citizensforethics.org or Lauren White, Citizens for Responsibility and Ethics in Washington, 1101 K St, N.W., Suite 201, Washington, D.C. 20005. Thank you for your

FOIA Officer
Page 4
April 21, 2020

assistance in this matter.

Sincerely,

Lauren White
Press Associate