

May 20, 2020

**SUBMITTED VIA PORTAL**

Douglas Hibbard  
Chief, Initial Request Staff  
Office of Information Policy  
U.S. Department of Justice  
Suite 11050  
1425 New York Avenue, N.W.  
Washington, D.C. 20530-0001

Re: Freedom of Information Act Request

Dear Mr. Hibbard:

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 Department of Justice (“DOJ”) regulations.

First, CREW requests all email communications sent to, copied to, or received by Attorney General William Barr, Chief of Staff Will Levi, Deputy Attorney General Jeffrey Rosen, or Assistant Attorney General, Office of Legal Policy Beth Williams from January 1, 2020 to the present regarding the removal of any inspector general, any acting inspector general or any deputy inspector general performing the duties of an inspector general.

Second, CREW requests all email communications sent to, copied to, or received by Attorney General William Barr, Chief of Staff Will Levi, Deputy Attorney General Jeffrey Rosen, or Assistant Attorney General, Office of Legal Policy, Beth Williams from January 1, 2020 to the present regarding any inspector general vacancy.

Third, CREW requests all email communications sent to, copied to, or received by Attorney General William Barr, Chief of Staff Will Levi, Deputy Attorney General Jeffrey Rosen, or Assistant Attorney General, Office of Legal Policy, Beth Williams from January 1, 2020 to the present regarding the nomination of Andrew DeMello, Eric Soskin, or Jason Weida as an inspector general.

Fourth, CREW requests all email communications sent to, copied to, or received by Attorney General William Barr, Chief of Staff Will Levi, Deputy Attorney General Jeffrey Rosen, or Assistant Attorney General, Office of Legal Policy, Beth Williams to or from members or staff of the Senate Committee on Health, Education, Labor, & Pensions, the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Commerce, Science, and Transportation, or the from January 1, 2020 to the present regarding any office of inspector general investigation, audit, review, report, or other matter.

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 DOJ 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).

In the last six weeks, President Donald Trump has announced his intention to nominate DOJ lawyers to replace several inspectors general with substantially more experience than the nominees. On April 3, Trump announced his intent to nominate DOJ trial attorney Andrew DeMello as the Department of Education (ED) Inspector General.<sup>1</sup> DeMello has only been licensed to practice law for less than ten years, but was nominated to replace acting ED IG Sandra Bruce, who has more than 30 years of experience in oversight and investigations.<sup>2</sup> Following the retirement of former IG Kathy Tighe, the Trump Administration was forced to reverse itself when it tried to install an agency employee as Acting IG, disrupting OIG's normal succession process.<sup>3</sup> On Friday May 1, Trump announced he was replacing HHS acting IG

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<sup>1</sup> 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/), available at <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-individuals-key-administration-posts-27/>, (Apr. 3, 2020).

<sup>2</sup> U.S. Department of Education, [OIG Leadership Team](https://www2.ed.gov/about/offices/list/oig/leadershipteam.html), available at <https://www2.ed.gov/about/offices/list/oig/leadershipteam.html>, (last accessed Apr. 3, 2020).

<sup>3</sup> Ross Levitt and Ellie Kaufman, [White House Reverses Decision to Replace Acting Education Inspector General](https://www.cnn.com/2019/02/01/politics/white-house-education-department-inspector-general/index.html), CNN, Feb. 1, 2019, available at <https://www.cnn.com/2019/02/01/politics/white-house-education-department-inspector-general/index.html>.

Christi Grimm with an assistant US attorney, Jason Weida who graduated from law school in 2005.<sup>4</sup> Grimm has been at OIG since 1999 and was honored by the Council for Inspectors General Integrity and Efficiency.<sup>5</sup> Trump repeatedly attacked Grimm for accurately reporting that hospitals across the country were experiencing supply shortages due to coronavirus, undercutting the President's erroneous talking points.<sup>6</sup> Finally, on May 15, 2020, President Trump announced his intention to nominate DOJ senior trial counsel Eric Soskin to serve as Inspector General of the Department of Transportation (DOT).<sup>7</sup> This move came on the same day that Trump sidelined acting DOT IG Mitch Behm, who was investigating allegations of political favoritism by Secretary Elaine Chao to benefit her husband and Trump ally Mitch McConnell's political prospects.<sup>8</sup>

The requested records will shed light on DOJ's role in the Trump administration's selection of inspectors general. Inspectors general are meant to be apolitical and independent, but the President has been explicit about his desire to purge the IG community and replace them with nominees that he perceives to be loyal to him.<sup>9</sup> These records are likely to contribute to greater public understanding of whether DOJ leadership has been engaged in discussions regarding IG vacancies and pushing employees from its own ranks to the White House to fill those positions. Attorney General William Barr has routinely facilitated the President's efforts to undermine democratic norms.<sup>10</sup> Inspectors general are integral to ensuring that government officials abide by federal ethics laws, are free of conflicts of interest, and perform the people's business in an effective and efficient manner. The public deserves to know whether DOJ leadership is helping to facilitate the Trump administration's purge of the IG community and recruitment of loyalists to fill those positions.

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

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<sup>4</sup> The White House, President Donald J. Trump Announces Intent to Nominate and Appoint Individuals to Key Administration Posts, available at <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-appoint-individuals-key-administration-posts-37/> (May 1, 2020).

<sup>5</sup> U.S. Department of Health and Human Services, Office of Inspector General, Leadership, available at <https://oig.hhs.gov/about-oig/about-us/leadership.asp>, (last accessed May 20, 2020).

<sup>6</sup> Lisa Rein, Trump replaces HHS watchdog who found 'severe shortages' at hospitals combating coronavirus, *Washington Post*, May 2, 2020, available at [https://www.washingtonpost.com/politics/trump-replaces-hhs-watchdog-who-found-severe-shortages-at-hospitals-combating-coronavirus/2020/05/02/6e274372-8c87-11ea-ac8a-fe9b8088e101\\_story.html](https://www.washingtonpost.com/politics/trump-replaces-hhs-watchdog-who-found-severe-shortages-at-hospitals-combating-coronavirus/2020/05/02/6e274372-8c87-11ea-ac8a-fe9b8088e101_story.html).

<sup>7</sup> The White House, President Donald J. Trump Announces Intent to Nominate Individuals to Key Administration Posts, available at <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-individuals-key-administration-posts-29/>, (May 15, 2020).

<sup>8</sup> Citizens for Responsibility and Ethics in Washington, Trump Just Removed the IG Investigating Elaine Chao. Chao's Husband, Mitch McConnell, Already Vetted the Replacement, <https://www.citizensforethics.org/trump-removed-watchdog-investigating-elaine-chao-mcconnell-vetted-replacement/>, (last visited May 19, 2020).

<sup>9</sup> Lisa Rein, Trump replaces HHS watchdog who found 'severe shortages' at hospitals combating coronavirus, *Washington Post*, May 2, 2020, available at [https://www.washingtonpost.com/politics/trump-replaces-hhs-watchdog-who-found-severe-shortages-at-hospitals-combating-coronavirus/2020/05/02/6e274372-8c87-11ea-ac8a-fe9b8088e101\\_story.html](https://www.washingtonpost.com/politics/trump-replaces-hhs-watchdog-who-found-severe-shortages-at-hospitals-combating-coronavirus/2020/05/02/6e274372-8c87-11ea-ac8a-fe9b8088e101_story.html).

<sup>10</sup> Citizens for Responsibility and Ethics in Washington, AG Bill Barr Violated Rules with Investigation Interference, <https://www.citizensforethics.org/press-release/ag-bill-barr-violated-rules-with-investigation-interference/>, (last visited Feb. 14, 2020).

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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 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 on an expedited basis, please contact me at (202) 408-5565 or [aweismann@citizensforethics.org](mailto: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,



Anne L. Weismann Chief FOIA Counsel