

May 18, 2020

BY EMAIL: foiarequest@state.gov

U.S. Department of State
Office of Information Programs and Services
A/GIS/IPS/RL
SA-2, Suite 8100
Washington, D.C. 20522-8100

Re: Expedited Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records and request for expedited processing pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Department of State regulations. Specifically, CREW requests the following:

1. All records from April 1, 2020 to the date this request is processed concerning any inquiry, review, analysis, or receipt of any allegation by the State Department’s Office of Inspector General (“OIG”) of Secretary of State Mike Pompeo’s potential misuse of State Department employees or resources to perform personal tasks on behalf of himself or his family members. This request includes without limitation any responsive communications between the Office of the Secretary and the OIG.
2. All records from April 1, 2020 to the date this request is processed concerning the potential or actual termination, removal, or replacement of Inspector General Steve Linick.
3. All records from April 1, 2020 to the date this request is processed reflecting communications between Secretary Pompeo or any of his immediate staff and the White House mentioning, concerning, or relating to Inspector General Steve Linick. For purposes of this request, the “White House” includes any individual with an “@*.eop.gov” email domain.

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).

Please be advised that CREW intends to pursue all legal remedies to enforce its right under the FOIA to access these documents. Accordingly, because litigation reasonably is foreseeable, the State Department 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 State Department 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).

Late in the evening of May 15, 2020, President Trump notified Congress of his intent to remove State Department Inspector General Steve Linick.¹ The White House has since confirmed that Secretary Pompeo personally recommended Inspector General Linick's removal.² This late-night, weekend firing was met with swift backlash by several members of Congress, who noted it appears to be part of a pattern of retaliatory firings of Inspectors General by the Trump Administration.³ The removal also comes amid reports that Inspector General Linick recently opened an investigation into Secretary Pompeo's alleged "misuse of a political appointee to perform personal tasks for himself and his wife, Susan."⁴ As two members of Congress have observed, "[s]uch an action, transparently designed to protect Secretary Pompeo

¹ Meridith McGraw and Nahal Toosi, *Trump ousts State Department watchdog*, *Politico*, May 15, 2020, available at <https://www.politico.com/news/2020/05/15/state-department-inspector-general-fired-261536>.

² Monica Alba and Alicia Victoria Lozano, *Pompeo advised firing of State Department watchdog*, *White House official says*, *NBC News*, May 16, 2020, available at <https://www.nbcnews.com/politics/donald-trump/pompeo-advised-firing-state-department-watchdog-white-house-official-says-n1208726?cid=recommended>.

³ McGraw, *supra* note 1.

⁴ Alba, *supra* note 2.

from personal accountability, would undermine the foundation of our democratic institutions and may be an illegal act of retaliation.”⁵

The requested records would shed light on the circumstances surrounding Inspector General Linick’s removal, whether the OIG was in fact reviewing allegations of misconduct by Secretary Pompeo, and whether that inquiry or other illicit considerations played a role in Inspector General Linick’s removal. Insofar as these records may reveal improper retaliatory conduct by high-level government officials, the public has a compelling interest in their disclosure.

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 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 on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

⁵ Letter from Rep. Eliot L. Engel and Sen. Robert Menendez to Mark Meadows, May 16, 2020, *available at* https://foreignaffairs.house.gov/_cache/files/8/d/8da0aa4f-a15c-4e06-95fd-fec3354349f6/405342547241548579C8FD9CE08E609F.5-16-2020.-ele-menendez-letter-to-wh-preservation-order.pdf.

Request for Expedited Processing

Pursuant to 22 C.F.R. § 171.11(f)(2), CREW requests expedited processing of this FOIA request. I certify to be true and correct to the best of my knowledge and belief that (1) there is a “compelling need” for expedited processing because the requested “information is urgently needed . . . in order to inform the public concerning actual or alleged Federal government activity,” and (2) CREW’s “primary activity involves publishing or otherwise disseminating information to the public in general, not just to a particular segment or group.” 22 C.F.R. § 171.11(f)(2).

First, a FOIA requester can demonstrate an “urgent[] need” warranting expedited processing where, as here, the requested information relates to a current public debate on a matter of pressing national concern. *See Ctr. for Pub. Integrity v. DOD*, 411 F. Supp. 3d 5, 10 (D.D.C. 2019) (citing cases granting preliminary injunctions to compel expedited processing because “the records [were] sought to inform an imminent public debate”); *Wash. Post v. DHS*, 459 F. Supp. 2d 61, 75 (D.D.C. 2006) (“Because the urgency with which the plaintiff makes its FOIA request is predicated on a matter of current national debate, due to the impending election, a likelihood for irreparable harm exists if the plaintiff’s FOIA request does not receive expedited treatment.”).

As explained above in CREW’s request for a fee waiver, the requested records relate to the current “public debate” over the Trump Administration’s ongoing pattern of retaliatory firings of Inspectors General. This is a matter of pressing “national concern,” as evidenced by the extensive interest it has garnered by the national media and members of Congress.⁶ Indeed, one senator has observed that the administration’s “firings of multiple Inspectors General is unprecedented; doing so without good cause chills the independence essential to their purpose. It is a threat to accountable democracy and a fissure in the constitutional balance of power.”⁷ And these concerns are particularly acute with respect to the firing of Inspector General Linick. He had previously issued reports critical of political appointees at the State Department, and was reportedly investigating alleged misconduct by Secretary Pompeo when the Secretary urged his removal to the President. Finally, the fact that the 2020 presidential election is less than six months away underscores the “urgent[]” need to obtain this information in order to ensure a fully “informed electorate.” *Ctr. for Pub. Integrity*, 411 F. Supp. 3d at 10; *Wash. Post*, 459 F. Supp. 2d at 75.

Second, CREW’s “primary activity involves publishing or otherwise disseminating information to the public in general.” As noted above, CREW routinely disseminates information—including documents and information received through its FOIA requests—to the “public in general” through its website, www.citizensforethics.org, which receives tens of

⁶ See, e.g., Philip Rucker et al., *Trump ramps up retaliatory purge with firing of State Department inspector general*, *Washington Post*, May 16, 2020, available at https://www.washingtonpost.com/politics/trump-ramps-up-retaliatory-purge-with-firing-of-state-department-inspector-general/2020/05/16/8f8b55da-979a-11ea-82b4-c8db161ff6e5_story.html; see also *supra* nn. 1-5 (citing sources).

⁷ Rucker, *supra* n. 6 (quoting statement of Senator Mitt Romney).

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thousands of views every month. That 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.

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 nsus@citizensforethics.org. Also, if CREW's requests for a fee waiver or expedited processing are 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 at either nsus@citizensforethics.org or Nikhel Sus, Citizens for Responsibility and Ethics in Washington, 1101 K St., N.W., Suite 201, Washington, D.C. 20005. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikhel Sus", written in a cursive style.

Nikhel Sus
Senior Counsel