

June 18, 2020

BY EMAIL: foia@sba.gov

Chief, Freedom of Information/Privacy Acts Office
U.S. Small Business Administration
409 Third St. SW, Eighth floor
Washington, DC 20416

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) submits this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and U.S. Small Business Administration (“SBA”) regulations.

Specifically, CREW seeks all records from March 27, 2020 to the date this request is processed concerning any approved loan, grant, or other form of financial assistance issued under SBA’s Paycheck Protection Program (“PPP”) or Economic Injury Disaster Loan (“EIDL”) program to any of the following entities, in which members of Congress have reported financial interests:

1. Roger Williams Chrysler Dodge Jeep
2. Roger Williams Auto Mall
3. JRW Corporation
4. Van Dyke Energy
5. Quantum Energy Partners
6. Heartland Tractor Company
7. Hartzler Farms, Inc.
8. Full House Resorts, Inc.
9. Fiesta Restaurant Group, Inc.
10. Buchanan Automotive Group, LLC
11. Buchanan Automotive Holdings, Inc. – Sarasota 500
12. Sarasota 500, LLC
13. 600, LC – Auto Dealer
14. Jamatt Properties, LLC
15. Elizabeth City, LLC
16. Aircraft Holding & Leasing, LLC
17. Nissan of Elizabeth City – Auto Dealer
18. ZAGG, Inc.
19. Carlton Hotel Properties, LP
20. Hotel Carlton San Francisco
21. KTAK Corporation
22. Custom Foods of America, Inc.

23. R.W. Allen Construction, LLC
24. R.W. Allen and Associates
25. Don Beyer Motors, Inc.
26. Beyer Automotive Group
27. Sonny's Barbeque
28. Northwest Respiratory Services, LLC
29. Ronald H. and Jane K. Johnson, LLC
30. Pacur, LLC
31. DP Lenticular, Ltd.

This request includes without limitation records sufficient to identify the following information with respect to any PPP or EIDL loan issued to any of the above entities: (1) amount of the loan; (2) date of approval; (3) date of disbursement; (4) collateral pledged to secure the loan; and (5) the loan terms, interest rate, maturity date, and general purpose.

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, and anyone who was 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). 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 these documents. Accordingly, because litigation reasonably is foreseeable, SBA 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 SBA 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 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), the largest economic stimulus bill in American history. The \$2 trillion aid package allotted over \$360 billion for the SBA to provide financial relief to small businesses affected by the COVID-19 pandemic through the PPP and EIDL programs. Although the CARES Act disqualifies an entity from obtaining certain funds if government officials hold a controlling interest in the entity, that prohibition does not apply to SBA loans.

Amid widespread criticism of the PPP for failing to benefit the small businesses it was intended to assist, reports emerged that at least “four members of Congress have reaped benefits” from the program, either by obtaining PPP loans “directly for their business or indirectly through a spouse.”¹ Two of those members—Rep. Roger Williams and Rep. Vicky Hartzler—have refused to disclose the amounts of their PPP loans, and have voted against legislation that would have required public disclosure of PPP loan recipients.²

The requested records would shed light on whether the SBA issued PPP or EIDL loans to businesses in which members of Congress have reported financial interests, as well as the details of any such loans. The public has a compelling interest in learning the extent to which members of Congress obtained or otherwise benefitted from scarce federal funds that were intended to help small businesses endure the economic fallout from the COVID-19 pandemic.

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

¹ Sarah Ferris, Melanie Zanona, and Zachary Warmbrodt, Members of Congress took small-business loans — and the full extent is unknown, *Politico*, June 16, 2020, available at <https://www.politico.com/news/2020/06/16/congress-small-business-loan-320625>.

² *Id.*

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.

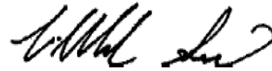
Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

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 nsus@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 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.

Sincerely,



Nikhel Sus
Senior Counsel