



June 3rd, 2020

Sent By Email: foiarequests@dol.gov

Chief FOIA Officer
Kate O'Scannlain
U.S. Department of Labor
Office of the Solicitor of Labor
200 Constitution Ave NW
Washington, DC 20210

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 U.S. Department of Labor (“DOL”) regulations.

Specifically, CREW seeks all records from December 1, 2019 to the date this request is processed regarding the compliance of meatpacking plant(s) with federal standards pertaining to worker safety. This request includes, but is not limited to, communications between the Department of Labor and (1) any private individual or entity, or (2) any White House official, including anyone 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, DOL 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 DOL 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).

As of May 20th, 2020, at least 15,300 Covid-19 infections have been directly linked to meatpacking plants and 63 workers have died as a result. Almost half of the nation's 400 largest meat packing facilities operate in counties with high rates of Covid-19 infection, yet President Trump has demanded the plants remain open. Many plant workers are compelled to work during the crisis due to their personal financial need. But this scenario places laborers in serious danger, especially when safety protocols and regulations are ignored.¹

As the Huffington Post detailed in a recent report, the DOL may have collaborated with meatpacking companies to shield them from liability in ongoing and/or threatened occupational safety lawsuits.² CREW thus seeks to investigate (1) if the meatpacking industry is following DOL safety regulations and (2) if the DOL is transparently and openly fulfilling its occupational safety mandate³ for American citizens and essential workers in the meatpacking industry, especially during the COVID-19 pandemic. Government agency accountability and corporate

¹ Sky Chadde, Kyle Bagenstose, Veronica Martinez Jacobo & Rachel Axon, [Cheap chicken, beef came at a cost. How American meat plants bred coronavirus hot spots.](https://www.usatoday.com/in-depth/news/investigations/2020/05/21/coronavirus-american-chicken-beef-industry-vulnerable-despite-trump/3107636001/) *USA Today*, May 29th 2020, available at <https://www.usatoday.com/in-depth/news/investigations/2020/05/21/coronavirus-american-chicken-beef-industry-vulnerable-despite-trump/3107636001/>

² Alexander C. Kaufman, [Meatpacking Plants Turn To Trump For Backup Against Lawsuits](https://www.huffpost.com/entry/meatpacking-plants-trump-covid_n_5ebd723dc5b655620b140120), *Huffington Post*, May 29th, 2020, available at https://www.huffpost.com/entry/meatpacking-plants-trump-covid_n_5ebd723dc5b655620b140120

³ [About Us](https://www.dol.gov/general/aboutdol), U.S. Department of Labor, May 29th, 2020, available at <https://www.dol.gov/general/aboutdol>

responsibility are perpetually important, but are especially critical in such a crisis. It is therefore imperative that the public have access to records that, if they exist, would shed further light on communications regarding worker safety standards between the DOL and (1) outside entities, (2) President Trump, and (3) White House employees.

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 as 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 blog posts 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, which has 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) 894-7058 or eraskin@citizensforethics.org. Where possible, please produce records in electronic format. Please send the requested records to me either at eraskin@citizensforethics.org or Elliot J. Raskin, 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,



Elliot Raskin