



June 3rd, 2020

**Sent By Email: USDAFOIA@ocio.usda.gov**

Alexis R. Graves  
Departmental FOIA Officer  
1400 Independence Avenue, SW  
South Building  
Room 4104  
Washington, DC 20250-0706

**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 United States Department of Agriculture (“USDA”) 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 Agriculture 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, USDA 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 USDA 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.<sup>1</sup>

As the Huffington Post detailed in a recent report, the Federal Government may have collaborated with meatpacking companies to shield them from liability in ongoing and/or threatened occupational safety lawsuits.<sup>2</sup> CREW thus seeks to investigate (1) if the meatpacking industry is following safety regulations and (2) if the USDA is transparently and openly fulfilling its mandate<sup>3</sup> to help rural American citizens and essential workers in the meatpacking industry,

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<sup>1</sup> 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/>

<sup>2</sup> 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](https://www.huffpost.com/entry/meatpacking-plants-trump-covid_n_5ebd723dc5b655620b140120)

<sup>3</sup> [About Us](https://www.usda.gov/our-agency/about-usda#:~:text=We%20have%20a%20vision%20to,through%20conservation%2C%20restored%20forests%2C%20improved), U.S. Department of Agriculture, May 29th, 2020, available at <https://www.usda.gov/our-agency/about-usda#:~:text=We%20have%20a%20vision%20to,through%20conservation%2C%20restored%20forests%2C%20improved>

especially during the COVID-19 pandemic. Government agency accountability and corporate 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 USDA 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](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 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](mailto:eraskin@citizensforethics.org). Where possible, please produce records in electronic format. Please send the requested records to me either at [eraskin@citizensforethics.org](mailto: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,

A handwritten signature in black ink, appearing to be 'ER' followed by a long horizontal stroke.A handwritten signature in black ink, appearing to be 'A' followed by a long horizontal stroke.

Elliot Raskin