



citizens for responsibility
and ethics in washington

July 15, 2020

Sent via email: usoge@oge.gov

OGE FOIA Officer
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3917

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 Office of Government Ethics (“OGE”) regulations at 5 C.F.R. part 2604.

First, CREW requests a copy of any agreement establishing or related to the MRP Legal Expense Trust Fund, a legal expense fund created by James D. Atterholt for Vice President Mike Pence, the sole beneficiary.

Second, CREW requests copies of all communications related to the MRP Legal Expense Trust Fund and/or James Atterholt. This request includes, but is not limited to, email communications between OGE and Mr. Atterholt or his representatives.

Please search for records created between November 1, 2018 through the date OGE conducts the search.

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. Please include any attachments or other enclosures included in email communications.

If it is your position that 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 agency 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).

Vice President Mike Pence disclosed in his latest financial disclosure report that the MRP Legal Expense Trust Fund raised nearly \$500,000 in 2019 to cover the vice president's legal expenses associated with investigations into the 2016 presidential election.¹ Vice President Pence indicated in an endnote that contributors to the legal expense fund were required to certify that they were not registered lobbyists or government contractors, but CREW found that three people who contributed to the legal expense fund are executives at companies with government contracts.² Without more information about the MRP Legal Expense Trust Fund, it is not clear if those donors are considered government contractors who would be prohibited from contributing to the fund. The requested records are of significant interest to the public because they will clarify whether any of the contributors to the legal expense fund may have been prohibited from donating to the fund.

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

¹ Mike Pence, 2020 Annual Public Financial Disclosure Report, June 29, 2020 (Parts 5, 9), available at <https://bit.ly/38Wvpwy>.

² *Id.*; Meredith Lerner and Caitlin Moniz, Mike Pence's Legal Expenses Were Paid By Donors Connected to Government Contractors, CREW, July 2, 2020, <https://bit.ly/3iXAGIL>.

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 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) 897-1845 or mlerner@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 either at mlerner@citizensforethics.org or at Meredith Lerner, 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 cursive script, appearing to read 'ML', is positioned above the typed name.

Meredith Lerner
Research Associate