CREW | citizens for responsibility and ethics in washington

December 16, 2016

BY FOIAonline

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

Re: Freedom of Information Act Request

Dear Freedom of Information 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 Environmental Protection Agency ("EPA") regulations.

CREW requests copies of any questionnaires submitted to the EPA by any representative of President-elect Donald Trump's transition team, including representatives of Trump for America, Inc., and the Office of the President-Elect and the Office of the Vice President-Elect.

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.

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).

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and EPA 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 will likely 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).

In early December, news outlets reported that President-elect Trump's transition team had sent an extensive questionnaire to the Department of Energy that included a request for the names of all agency employees or contractors who have attended conferences related to climate change policy as well as e-mails and documents associated with the conferences.[1] The questionnaire raised concerns about potential retaliation against Energy Department staff by the incoming administration.[2] The Energy Department declined to provide individual names to transition team while acknowledging that some of the questions "left many in our workforce unsettled."[3]

The requested records would shed light on whether the Trump transition team has sought similar information at other government agencies that have worked on climate change policy.

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, and through www.scribd.com. 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").

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[1] Coral Davenport, Climate Change Conversations are Targeted in Questionnaire, *New York Times*, Dec. 9, 2016, *available at* http://www.nytimes.com/2016/12/09/us/politics/climate-change-energy-department-donald-trump-transition.html.

[2] Brakkton Booker, Trump Questionnaire Raises Concerns About Retaliation Against Energy Department Staff, *NPR*, Dec. 10, 2016, *available at* http://www.npr.org/sections/thetwo-way/2016/12/10/505105258/trump-questionnaire-raises-concerns-about-retaliation-against-energy-department.

[3] Joe Davidson, Energy Dept. Rejects Trump's Request to Name Climate Change Workers, Who Remain Worried, *Washington Post*, Dec. 13, 2016, *available at* https://www.washingtonpost.com/news/powerpost/wp/2016/12/13/energy-dept-rejects-trumps-request-to-name-climate-change-workers-who-remain-worried/?utm_term=.ade20de7da3e.

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 a blog that reports on and analyzes 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 all of the documents it receives under the FOIA at www.scribd.com, and those documents have 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) 408-5565 or arappaport@citizensforethics.org. CREW also welcomes the opportunity to discuss with you whether and to what extent this request can be narrowed or modified to better enable the EPA to process it within the FOIA's deadlines. In addition, 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 arappaport@citizensforethics.org or at Adam J. Rappaport, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W., 6th Floor, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,

Adam J. Rappaport
Chief Counsel