

CREW | citizens for responsibility and ethics in washington

June 6, 2008

By U.S. Mail & Fax (202-690-8320)

U.S. Department of Health and Human Services
Freedom of Information Officer
Mary E. Switzer Building, Room 5416
300 C Street, S.W.
Washington, D.C. 20201

Re: Freedom of Information Act Request

Dear Sir/Madam:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records, regardless of format, medium, or physical characteristics, and including electronic records and information, audiotapes, videotapes, and photographs, pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq* and U.S. Department of Health and Human Services (“HHS”) FOIA Regulations, 45 C.F.R. Part 5.

Specifically, CREW seeks records of any contacts, dating from June 2005 to the present, that HHS had with former HHS Secretary Tommy Thompson and/or Logistics Health Inc. (“Logistics”). We also request any and all contracts HHS has entered into with Logistics from June, 2005 to the present. We further request records of contacts any HHS employee had with any employee of Logistics, including Tommy Thompson.

In addition, CREW seeks any and all records from HHS that relate in any way to how Logistics was selected for any contract, including but not limited to the competitive bidding process; the individuals or points of contact representing Logistics in the bidding and negotiation process; the unsuccessful proposals submitted for the contracts in which Logistics was selected; the price negotiation memoranda representing the same; and the solicitation or invitation for bids.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including electronic records, audiotapes, videotapes, photographs, and back-up tapes. Our request includes any telephone messages, voice mail messages, daily agenda and calendars, information about scheduled meetings and/or discussions whether in person or over the telephone, agendas for those meetings and/or discussions, participants included in those meetings and/or discussions, minutes of any such meetings and/or discussions, the topics discussed at those meetings and/or discussions, e-mail regarding meetings and/or discussions, e-mail or facsimiles sent as a result of those meetings and/or discussions, and transcripts and notes of any such meetings and/or discussions to the

extent they relate to the aforementioned requested information.

If it is your position that any portion of the requested records is exempt from disclosure, CREW requests that you provide an index of those documents as required under Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert denied, 415 U.S. 977 (1972). As you are aware, a Vaughn index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.” Founding Church of Scientology v. Bell, 603 F.2d 945, 959 (D.C. Cir. 1979). Moreover, the Vaughn index must “describe each document or portion thereof withheld, and for **each** withholding it must discuss the consequences of supplying the sought-after-information.” King v. U. S. Dep’t of Justice, 830 F.2d 210, 223-24 (D.C. Cir. 1987) (emphasis added). Further, “the withholding agency must supply a ‘relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of the withheld document to which they apply.’” Id. at 224, citing Mead Data Central v. U. S. Dep’t of the Air Force, 566 F.2d 242, 251 (D.C. Cir. 1977).

In the event that 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) (“Any reasonably segregable portion of a records shall be provided to any person requesting such record after the deletion of portions which are exempt . . .”); see also Schiller v. Nat’l Labor Relations Bd., 969 F.2d 1205, 1209 (D.C. Cir. 1992). 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 documents. Mead Data Central, 566 F.2d at 261. Claims of non-segregability must be made with the same degree of detail as required for claims of exemption in a Vaughn index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

Fee Waiver Request

In accordance with 5 U.S.C. §552(a)(4)(A)(iii) and 45 C.F.R. Part 5, Subpart D, § 5.45, 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. Specifically, the requested records are likely to contribute significantly to the public’s understanding of the process that HHS uses in contracting with outside firms/entities, and the degree to which that process may be affected by the relationship of former, high-level HHS officials to the outside firms/entities. This subject is of particular interest and importance to the public in light of recent news reports regarding an \$11 million contract HHS awarded to Logistics, a private company headed by Tommy Thompson who formerly oversaw the Centers for Disease Control and Prevention, the subject of the contract, during his tenure as HHS Secretary. See, e.g., Devlin Barrett, Ex-Bush Health Chief’s Firm

Wins Sept. 11 Work, *The Associated Press* (June 4, 2008). The nature of the awarded contract, tracking the health of 4,000 to 6,000 workers who were exposed to toxic debris from the September 11 attacks at the World Trade Center, closely relates to Mr. Thompson's management of the situation while HHS Secretary.

Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. §552(a)(4)(A)(iii). See, e.g., McClellan Ecological v. Carlucci, 835 F.2d 1282, 1285 (9th Cir. 1987). CREW is a non-profit corporation, organized under 501(c)(3) of the Internal Revenue Code, and engaged primarily in disseminating information. CREW is committed to protecting the right of citizens to be aware of the activities of government officials and to ensuring the integrity of those officials. CREW is dedicated to empowering citizens to have an influential voice in government decisions and in the government decision-making process. The release of information garnered through this request is not in CREW's financial interest. CREW will analyze the documents responsive to this request, and will likely share its analysis with the public, either through memoranda, reports or press releases. CREW has an established record of carrying out these types of activities, as evidenced through its website, www.citizensforethics.org. Currently, the CREW website contains links to thousands of pages of documents acquired from FOIA requests. See <http://citizensforethics.org/activities/foia.php>. Visitors to CREW's website can peruse the FOIA request letters, the responses from government agencies and a growing number of documents responding to FOIA requests. CREW's virtual reading room provides around-the-clock access to anyone interested in learning about the government activities that were the focus of CREW's FOIA requests. The CREW website also includes documents relating to CREW's FOIA litigation, Internal Revenue Service complaints and Federal Election Commission complaints. In addition, CREW will disseminate any documents it acquires from its request to the public through www.governmentdocs.org, an interactive website CREW founded that includes thousands of pages of public documents from a number of organizations in addition to CREW.

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

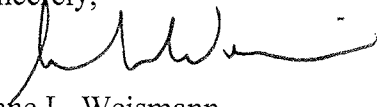
Conclusion

Please respond to this request in writing within 20 days as requested under 5 U.S.C. §552(a)(6)(A)(I). If all of the requested documents are not available within that time period, CREW requests that you provide it with all requested documents or portions of documents that are available within that time period.

If you have any questions about this request or foresee problems in releasing fully the requested records within the 20-day period, please call me within that time period. I can be reached at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact me immediately upon making such a determination. Please send the requested documents to Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne L. Weismann', written in a cursive style.

Anne L. Weismann
Chief Counsel
Citizens for Responsibility and Ethics in Washington