

October 2, 2009

FOIA Coordinator  
U.S. Department of Labor – OASAM  
Room S-3317  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

**By Fax: 202-693-7954**

**Re: Freedom of Information Act Request**

Dear Sir or 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 Labor (“DOL”) regulations, 29 C.F.R. Part 70.

Specifically, CREW seeks:

- (1) copies of all versions of the Media Sanitation Standard Operating Procedure issued by the Office of the Assistant Secretary for Administration and Management;
- (2) all guidance concerning implementation of the Media Sanitation Standard Operating Procedure; and
- (3) copies of the electronic media disposition logs of former Secretary Chao and all of her direct reports regarding electronic media disposition.

Please search for responsive records regardless of format, medium, or physical characteristics. Where possible, please produce records electronically, in PDF or TIF format on a CD-ROM. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs.

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), 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, 949 (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 a 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). 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. Mead Data Central, 566 F.2d at 261. Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions 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 70 C.F.R. § 70.41, 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 expenditures, and the disclosures will likely contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. 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).

These records are likely to contribute to greater public awareness of DOL’s record keeping practices and the extent to which records of former high-level officials of DOL were improperly destroyed prior to or immediately following their departure pursuant to the policies authorized in the requested Media Sanitation Standard Operating Procedure.

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 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. CREW uses a combination of research, litigation, and advocacy to advance its mission. The release of information garnered through this request is not in CREW’s financial interest. In addition, CREW will disseminate any documents it acquires from this request to the public through [www.governmentdocs.org](http://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. CREW's website also contains links to thousands of pages of documents CREW acquired from multiple FOIA requests. See [www.citizensforethics.org](http://www.citizensforethics.org). CREW's website includes documents relating to CREW's FOIA litigation, Internal Revenue complaints, and Federal Election Commission complaints.

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

### **News Media Fee Waiver Request**

CREW also asks that it not be charged search or review fees for this request because CREW qualifies as a "representative of the news media" pursuant to the FOIA. In Nat'l Sec. Archive v. U.S. Dep't of Defense, 880 F.2d 1381, 1386 (D.C. Cir. 1989), the Court of Appeals for the District of Columbia Circuit found the National Security Archive was a representative of the news media under the FOIA, relying on the FOIA's legislative history, which indicates the phrase "representative of the news media" is to be interpreted broadly; "[i]t is critical that the phrase 'representative of the news media' be broadly interpreted if the act is to work as expected. . . . In fact, *any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a 'representative of the news media.'*" 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis added), cited in id.

CREW routinely and systematically disseminates information to the public in several ways. First, CREW maintains a frequently visited website, [www.citizensforethics.org](http://www.citizensforethics.org), that received 37,802 visits in September 2009. The website reports the latest developments and contains in-depth information about a variety of activities of government agencies and officials.

Second, since May 2007, CREW has published an online newsletter, *CREWCuts*, that currently has 15,054 subscribers. *CREWCuts* provides subscribers with regular updates regarding CREW's activities and information the organization has received from government entities. A complete archive of past *CREWCuts* is available at <http://www.citizensforethics.org/newsletter>.

Third, CREW publishes a blog, *Citizens blogging for responsibility and ethics in Washington*, that reports on and analyzes newsworthy developments regarding government ethics and corruption. The blog, located at <http://www.citizensforethics.org/blog>, also provides links that direct readers to other news articles and commentary on these issues. CREW's blog had 1,598 hits in September.

Finally, CREW has published numerous reports to educate the public about government ethics and corruption, including agencies' failure to comply with their record keeping responsibilities. See *Record Chaos*, which examines agency compliance with electronic record

FOIA Coordinator  
October 2, 2009  
Page 4

keeping responsibilities; *The Revolving Door*, a comprehensive look into the post-government activities of 24 former members of President Bush's cabinet; and *Those Who Dared: 30 Officials Who Stood Up For Our Country*. These and all other CREW's reports are available at <http://www.citizensforethics.org/reports>.

Based on these extensive publication activities, CREW qualifies for a fee waiver as a "representative of the news media" under the FOIA.

### **Conclusion**

If you have any questions about this request or foresee any problems in releasing fully the requested records on an expedited basis, please contact me at (202) 408-5565. Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such determination. Please send the requested records to Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 1400 Eye Street, N.W., Suite 450, Washington, D.C. 20005.

Sincerely,



Anne L. Weismann  
Chief Counsel

# CREW | citizens for responsibility and ethics in washington

---

1400 Eye Street N.W., Suite 450  
Washington, D.C. 20005  
Phone: 202-408-5565  
Fax: 202-588-5020

---

---

## FACSIMILE TRANSMITTAL SHEET

---

---

TO:

FOIA Coordinator, OASAM

FROM:

Anne L. Weismann

COMPANY:

U.S. Department of Labor -- OASAM

DATE:

OCTOBER 2, 2009

RECIPIENT'S FAX NUMBER:

202-693-7954

PAGE 1 OF 5

RECIPIENT'S PHONE NUMBER:

RE:

FOIA Request

---

NOTES/COMMENTS:

*Pages transmitted are privileged and confidential.*